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NOTICE OF MEETING



EMPLOYMENT PANEL

will meet on

TUESDAY, 18TH OCTOBER, 2016

At 6.30 pm

in the

ASCOT AND BRAY - TOWN HALL, MAIDENHEAD

TO: MEMBERS OF THE EMPLOYMENT PANEL

COUNCILLORS LISA TARGOWSKA (CHAIRMAN), EILEEN QUICK (VICE-CHAIRMAN), PHILLIP BICKNELL, PAUL BRIMACOMBE, STUART CARROLL, DR LILLY EVANS, LYNNE JONES AND MJ SAUNDERS

SUBSTITUTE MEMBERS

COUNCILLORS CHRISTINE BATESON, SIMON DUDLEY, DAVID HILTON, JACK RANKIN, JOHN STORY, EDWARD WILSON, MALCOLM BEER, SIMON WERNER AND SAMANTHA RAYNER

Karen Shepherd - Democratic Services Manager - Issued: Monday, 10 October 2016

Members of the Press and Public are welcome to attend Part I of this meeting. The agenda is available on the Council's web site at www.rbwm.gov.uk or contact the Panel Administrator **Karen Shepherd** 01628 796529

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AGENDA

PART I

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3.	<u>MINUTES</u> To consider the Part I minutes of the meeting held on 21 September 2016.	7 - 10
4.	<u>APPLICATION OF THE ENGLISH LANGUAGE REQUIREMENTS FOR PUBLIC SECTOR WORKERS</u> To consider the report and appendices.	11 - 52
5.	<u>TRADE UNION PAY CLAIM 2017/18</u> To consider the report and make recommendations.	53 - 82
6.	<u>BRIEFING NOTE ON PAY REWARD SCHEME</u>	83 - 84
7.	<u>LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF THE PUBLIC</u> To consider passing the following resolution:- "That under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the remainder of the meeting whilst discussion takes place on items 6-7 on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 1-7 of part I of Schedule 12A of the Act"	
8.	<u>MINUTES</u> To consider the Part II minutes of the meeting held on 21 September 2016 <i>(Not for publication by virtue of Paragraph 1, 2, 4 of Part 1 of Schedule 12A of the Local Government Act 1972)</i>	85 - 88
9.	<u>ADULTS, CHILDREN AND HEALTH SERVICES INTERIM MANAGEMENT STRUCTURE</u> To consider the report and make recommendations.	89 - 98

(Not for publication by virtue of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972)

MEMBERS' GUIDANCE NOTE

DECLARING INTERESTS IN MEETINGS

DISCLOSABLE PECUNIARY INTERESTS (DPIs)

DPIs include:

- Any employment, office, trade, profession or vocation carried on for profit or gain.
- Any payment or provision of any other financial benefit made in respect of any expenses occurred in carrying out member duties or election expenses.
- Any contract under which goods and services are to be provided/works to be executed which has not been fully discharged.
- Any beneficial interest in land within the area of the relevant authority.
- Any license to occupy land in the area of the relevant authority for a month or longer.
- Any tenancy where the landlord is the relevant authority, and the tenant is a body in which the relevant person has a beneficial interest.
- Any beneficial interest in securities of a body where
 - a) that body has a piece of business or land in the area of the relevant authority, and
 - b) either (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body **or** (ii) the total nominal value of the shares of any one class belonging to the relevant person exceeds one hundredth of the total issued share capital of that class.

PREJUDICIAL INTERESTS

This is an interest which a reasonable fair minded and informed member of the public would reasonably believe is so significant that it harms or impairs your ability to judge the public interest. That is, your decision making is influenced by your interest that you are not able to impartially consider only relevant issues.

DECLARING INTERESTS

If you have not disclosed your interest in the register, you **must make** the declaration of interest at the beginning of the meeting, or as soon as you are aware that you have a DPI or Prejudicial Interest. If you have already disclosed the interest in your Register of Interests you are still required to disclose this in the meeting if it relates to the matter being discussed. A member with a DPI or Prejudicial Interest **may make representations at the start of the item but must not take part in discussion or vote at a meeting.** The term 'discussion' has been taken to mean a discussion by the members of the committee or other body determining the issue. You should notify Democratic Services before the meeting of your intention to speak. In order to avoid any accusations of taking part in the discussion or vote, you must move to the public area, having made your representations.

If you have any queries then you should obtain advice from the Legal or Democratic Services Officer before participating in the meeting.

If the interest declared has not been entered on to your Register of Interests, you must notify the Monitoring Officer in writing within the next 28 days following the meeting.

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Agenda Item 3

EMPLOYMENT PANEL

WEDNESDAY, 21 SEPTEMBER 2016

PRESENT: Councillors Lisa Targowska (Chairman), Eileen Quick (Vice-Chairman), Phillip Bicknell, Stuart Carroll and Lynne Jones

Officers: Alison Alexander, Terry Baldwin and Karen Shepherd

APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Dr Evans and Saunders.

DECLARATIONS OF INTEREST

Alison Alexander declared a Disclosable Pecuniary Interest in the item 'Senior Structure Wiltshire Council – Allowance for Managing Director' as she was the Managing Director. She left the room for the duration of the discussion and voting on the item.

MINUTES

RESOLVED UNANIMOUSLY: That the Part I minutes of the meeting held on 18 July 2016 be approved.

TRANSFORMATION PROGRAMME, RIGHT PEOPLE, RIGHT TOOLS - LEARNING AND DEVELOPMENT

Members considered an update on the work to date under the Transformation programme 'Right People, Right Tools'. It was noted that a detailed, comprehensive training needs analysis (TNA) had been undertaken across the council, linked to development needs that had been identified through the appraisal process and by service areas. A training calendar of events had been compiled that linked to strategic priorities. Members were also able to view the calendar and book themselves on courses. Mandatory courses had been held to improve the skills of frontline managers, for example in the areas of sickness absence, performance management and the appraisal process. There had been an increased focus on e-learning as an alternative development method. All new managers were now required to attend an induction course for managers. The principles of leadership development had been discussed with the Senior Leadership Team (SLT) on 20 September 2016. On demand coaching would be available from 1 October 2016 to support the SLT and equip them to support their teams through the upcoming significant periods of change.

As part of the People Action Plan, 42 actions had been identified, linked to the results of the staff survey, the Organisational Development strategy and the Wellbeing strategy. The next stage was to prioritise the actions.

Members noted that the overall budget for 2016/17 to deliver both statutory and discretionary training identified in the TNA was £384,300, which equated to £369 per FTE. This compared to £590,840 (£548 per FTE) coded to learning and development in 2015/16.

The next steps for the team were to undertake the next TNA with service managers, further develop course delivery methods, and to continue to review e-learning as an alternative delivery method.

Councillor Quick commented that the progress was excellent and would make a difference to the workforce. It was confirmed that partner organisations were able to and were encouraged to take up courses; this occurred most often in the area of adult services. Training events were repeated throughout the year to ensure all could attend. Overall 234 courses were scheduled to be delivered this year. The Managing Director commented that in the future the way learning and development was presented may need to change as a result of services being 'delivered differently'. Some parts of the programme would have to be disengaged and resources put into partner organisations. Councillor Jones expressed concern that skills may be lost as services were transferred. The Managing Director agreed that officers with skills would be transferring to new organisations; however she highlighted that the local authority would remain a shareholder in the new organisation, therefore this would be a different relationship than if staff were transferring to a solely independent organisation. Staff would still be located in the town hall and other council buildings, and working with staff still employed by the local authority. An analysis of spending without the statutory requirements for Children and Adult services had not been undertaken, but could be if required.

It was confirmed that currently staff were required to undertake yearly mandatory training on security; from January 2017 a wider programme of mandatory training would be introduced. All new starters were made aware of the council's strategic priorities and manifesto commitments through induction training. Existing staff should have been cascaded information by their Departmental Management Teams on the launch of the council's Strategic Plan. E-learning options were being explored for further training, particularly adult social care.

Training on Mental Health first aid would be mandatory for managers and courses launched by January 2017. Councillor Carroll commented that the programme was excellent, and welcomed the opportunity for mental health training.

Members noted that the SLT had discussed the previous day how to define, identify and retain 'rising stars'. Ideas including secondments, additional work as Change Agents and Champions, and mentoring by senior staff, would be pulled together in a council-wide strategy which would be brought to the panel for approval.

RESOLVED UNANIMOUSLY: That Employment Panel notes the work to date under the transformation programme – right people and tools.

LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF THE PUBLIC

RESOLVED UNANIMOUSLY: That under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the remainder of the meeting whilst discussion takes place on items 6-8 on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 1-7 of part I of Schedule 12A of the Act.

The meeting, which began at 6.00 pm, finished at 6.43 pm

CHAIRMAN.....

DATE.....

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Report for: INFORMATION



Contains Confidential or Exempt Information	NO - Part I
Title	Application of the English language requirements for public sector workers
Responsible Officer(s)	Terry Baldwin, Head of HR
Contact officer, job title and phone number	Terry Baldwin, Head of HR, 01628 796992
Member reporting	
For Consideration By	Employment Panel
Date to be Considered	18 October 2016
Implementation Date if Not Called In	N/A
Affected Wards	None

REPORT SUMMARY

Part 7 of the Immigration Act 2016 creates a duty to ensure all public sector workers in a 'customer facing' role can speak fluent English to an appropriate standard. A statutory Code of Practice has been published whereby the council must have regard to this code when fulfilling statutory duties. This report summarises the council's responsibilities with regard to the Act.

If recommendations are adopted, how will residents benefit?

Benefits to residents and reasons why they will benefit	Dates by which residents can expect to notice a difference
Application of the Regulations will ensure that customer facing staff communicate effectively with residents.	October 2016 onwards

1. DETAILS OF RECOMMENDATIONS

RECOMMENDATION: That Employment Panel:

- i. Note and endorse the requirements placed on the council by Part 7 of the Immigration Act 2016 and the statutory Code of Practice on the English language requirements for public sector workers and endorses the action plan.

2. REASON FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

1.1 The new requirements have been reviewed and an action plan developed, see Appendix A. The key points of the Code of Practice are detailed in this report and a copy of the Code is in Appendix B.

Defining customer facing roles

1.2 The code covers all staff working in customer facing roles including fixed term, apprentices, agency workers and self employed contractors. Customer facing roles are defined as those for whom speaking to members of the public is a regular and intrinsic part of the role.

1.3 The council is required to determine all roles that fall into this category and HR have undertaken an initial assessment to identify roles that are customer facing, see table 1. This information has been sent to Service Areas and schools to review and confirm.

Table 1: Examples of roles and suggested customer facing status

Job role	Comments	Customer facing
Customer Services Assistant	Receives incoming calls from the public, answers questions, gives information and advice.	Yes
Teaching Assistant	Supporting pupils in class.	Yes
Administration Officer	Range of administrative tasks supporting a team, role is internally focussed and only occasionally receives external calls from members of the public.	No
Administration Officer	Range of administrative tasks supporting a team, provides the team with first point of contact support for calls from members of the public.	Yes
Parking Officer	Regular contact with members of the public, when patrolling parking areas.	Yes
Payroll Assistant	Regular contact with staff, occasional contact with external organisations.	No
Library Assistant	Provides information, help and support to access resources to the public/pupils.	Yes
Highways Operative	Part of a team, with occasional interaction with members of the public.	No
Social Worker	Works with case load of clients.	Yes
Environmental Health Officer	Delivers services to customers, residents and businesses.	Yes
Highways Engineer	Manages allocated projects, with some very limited with external organisations, members of the public.	No
Planning Officer	Manages a case load of applications, with regular contact with the public, businesses and professional organisations.	Yes
Cover Supervisor	Oversees a class in the absence of the teacher, supports pupils with allocated work.	Yes
Accountancy Technician	Part of a team, with occasional interaction with members of the public.	No

Definition of the standard of English language fluency

- 1.4 The council must determine the standard of English language fluency required for its customer facing roles. Using the guidance in the Code of Practice, the intention is that all customer facing roles can demonstrate 'The ability to converse at ease with the public, answer questions and provide advice, including the use of specialist terminology relevant to the job role/profession and where necessary for an extended period of time.'

Assessment of language competence

- 1.5 The Code of Practice identifies the following as some ways in which competence can be assessed such as:
- Competently answering interview questions in English.
 - Possession of a relevant qualification for the role attained as part of education in the UK or fully taught in English by a recognised institution abroad.
 - Passing an English spoken language competency test or possession of a relevant spoken English qualification at the minimum level specified in the Common European Framework of Reference for Languages (CEFR).

The council intends to ensure that applicants are assessed thoroughly, but fairly and that non native speaking applicants are not disadvantaged. The possession of a relevant qualification for the role as specified in the person specification will be assessed at the shortlisting stage. Competence in the English language will then be assessed at interview.

Requiring applicants to evidence the passing of a competency test or possession of a spoken English qualification, may exclude applicants who can competently speak English to the council's standard, but who have not taken a test or possess a relevant qualification. If it becomes apparent, through future interview and selection processes, that a competency test or qualification are required, the council will identify and then administer a suitable test as part of the recruitment process.

Job accountabilities

- 1.6 Job accountabilities for roles that are customer facing will be updated and the standard of fluency required added to person specifications.

Recruitment processes – assessment of competence

- 1.7 The council has historically assessed applicants' language skills at the interview stage, this will continue.

Assessment of existing staff

- 1.8 The new requirement applies to new and existing staff. The council must satisfy itself that existing staff meet the standard of English fluency set. The intention is to notify staff of this new requirement, although there is no requirement to test existing staff instantly. However it is possible that managers may identify through normal performance management processes individuals who do not meet the standard. If this issue is identified the HR Business Partner team will provide support to the manager and employee in addressing concerns through developing a remedial action plan.

Complaints

- 1.9 The Code sets out the procedure that ‘must be followed’ when a complaint is made by a member of the public, who considers that an employee has not met the required standard. The Corporate Complaints Procedure will be updated to state: ‘RBWM will investigate complaints made against its employees by members of the public who consider that the individual was unable to speak fluent English to an appropriate standard, as defined by Part 7 of the Immigration Act 2016’.
- 1.10 A complaint about an employees’ accent, dialect, manner or tone of communication, origin or nationality would not be considered a legitimate complaint about an employees ability to speak fluent English.

Agency workers and self employed contractors

- 1.11 The fluency requirement applies to agency workers and self employed contractors. All agencies and individuals employed will be advised of the council’s English language fluency standard. The council’s standard Consultancy agreement will be reviewed and updated to include a clause on English language fluency.

Voluntary or private sector providers of public services

- 1.12 As indicated in point 1.4 of the Code of Practice, the requirement does not currently extend to the voluntary or private sector in the provision of public services, although this may change at a later date.

Action plan and managers guidance

- 1.13 An action plan for HR, see Appendix B, has been created and will be implemented by December 2016. Also a guidance document for managers and schools has been developed and will be circulated, see Appendix C.

Option	Comments
Employment Panel notes the requirements placed on the council by the introduction of the Immigration Act 2016 and the statutory Code of Practice on the English language requirements for public sector workers and endorses the action plan. This is the recommended option.	This paper identifies what needs to be done to ensure compliance.
The action plan is not endorsed.	The council must take action to ensure it addresses its responsibilities under the Immigration Act 2016.

2 KEY IMPLICATIONS

Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be delivered by
The action plan is implemented	>30 November 2016	30 November 2016	18 November 2016	30 October 2016	30 November 2016

4. FINANCIAL DETAILS

Financial impact on the budget

4.1 None.

5. LEGAL IMPLICATIONS

5.1 Part 7 of the Immigration Act 2016 creates a duty to ensure that all public sector workers in a 'customer facing' role can speak fluent English to an appropriate standard. A statutory Code of Practice has been published and the council must have regard to this code when fulfilling their statutory duty.

5.2 The council must ensure that it implements the requirements in such a way that it does not contravene the Equality Act 2010. The proposed approach to implementation is intended to meet that requirement, although it is recommended that the approach be kept under review over the next year.

6. VALUE FOR MONEY

6.1 N/A.

7. SUSTAINABILITY IMPACT APPRAISAL

7.1 None.

8. RISK MANAGEMENT

8.1

Risks	Uncontrolled Risk	Controls	Controlled Risk
The council fails to implement the requirements of Part 7 of the Immigration Act.	High.	The action plan for HR is set out in Appendix B is implemented.	Low.
The council receives a challenge from a non native English speaker regarding their assessment process.	High.	The standard of spoken English and the assessment process is clearly identified and applied as part of the recruitment process.	Low.
The council fails to ensure complaints about the standard of English language in customer facing roles are addressed in accordance with the code of practice.	High.	The council's complaints procedure reflects the requirements set out in the code of practice.	Low.

9. LINKS TO STRATEGIC OBJECTIVES

9.1 The recommended approach strongly supports the council's objective of 'putting residents' first as it focuses on the need to ensure the experience of the resident in their interactions with the council is given the highest consideration.

10. EQUALITIES, HUMAN RIGHTS AND COMMUNITY COHESION

10.1 An EQIA was undertaken and identified the potential for discrimination on the grounds of race. The approach taken and action plan is designed to minimise the potential for this.

11. STAFFING/WORKFORCE AND ACCOMMODATION IMPLICATIONS

11.1 Refer to action plan.

12. PROPERTY AND ASSETS

12.1 None.

13. ANY OTHER IMPLICATIONS

13.1 None.

14. CONSULTATION

14.1 The following groups have been consulted:

- Trade Unions.
- Head of Customer Services as corporate complaints lead.
- People Forum.
- CMT.

15. TIMETABLE FOR IMPLEMENTATION

15.1 The key dates are detailed in the action plan, see Appendix B.

16. APPENDICES

- Appendix A – Action plan.
- Appendix B – Code of Practice on the English language requirement for public sector workers.
- Appendix C – RBWM guidance for managers and schools.

17. BACKGROUND INFORMATION

17.1 None.

18. CONSULTATION (MANDATORY)

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
Internal				
	Leader of the Council			
Cllr L Targowska	Lead Member			
Russell O'Keefe	Strategic Director Corporate and Community Services	CMT 23/9/16		
Alison Alexander	Managing Director/ Strategic Director Adults, Children and Health	23/9/16	30/9/16	Throughout
Simon Fletcher	Strategic Director Operations and Customer Services	CMT 23/9/16		
N/a	Finance Partner			
	Cabinet Policy Officer			
R Khakinia	Lawyer, SLS	11/8/16	24/8/16	None
J Hurd	Head of Customer Services	24/8/16	31/8/16	None
People Forum		13/9/16		

REPORT HISTORY

Decision type:	Urgency item?
For information	No

Full name of report author	Job title	Full contact no:
Karin Zussman-Ward	Lead HR Consultant	01628796211

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Appendix A

Action plan – Application of the English language requirements for public sector workers

	Issue	Action required	By whom	By when	Outcome
1.	Identify customer facing roles.	Initial identification of customer facing roles	Strategic HR.	September 2016.	To have a first draft of the affected roles.
2.	Customer facing roles - reviewed and agreed by service area.	All service areas must review and agree customer facing role status.	All service areas.	Following People Forum and by end October 2016.	To finalise a list of all affected roles, that has been approved by Service Areas.
3.	Corporate Complaints Procedure.	Recent wider review of the procedure included the requirements of the Code, which has been updated and published.	Head of Customer Services.	7 September 2016.	To ensure the procedure is up to date and relevant.
4.	Review recruitment processes.	Job accountabilities/person specification template and employee handbook to be updated to reflect requirement and fluency standard.	Strategic HR.	After EP October 2016.	To ensure compliance to legislation.
5.	Brief managers on their role in the recruitment process.	Issue guidance to managers on requirement and the assessment of English language fluency as part of recruitment process.	Strategic HR	After EP October 2016.	To ensure managers are clear on the legislation and understand their role.
6.	Recruitment activities.	Update job accountabilities/person specification for customer facing roles as and when recruitment takes place.	HR Operations	As required.	To ensure compliance to legislation.
7.	Advise existing staff of the requirement.	Formal notification to those staff in customer facing roles.	Strategic HR	End November 2016.	That staff are aware of the changes and whether they are impacted.
8.	Existing staff – possible concerns.	Managers identify concerns as part of performance management process. Support plan agreed with HR Business Partner.	All service areas. HR Business Partners.	End November 2016.	Managers are supported in dealing with staff identified as needing help in developing their spoken language skills.
9.	Agencies	Advise recruitment agencies of council's English language standard and those roles defined as customer facing.	HR Business Partners and service areas	After EP October 2016.	Agencies fully understand the RBWM requirements.
10.	Self employed - contractors	Services review current workers to ensure compliance. Issues referred to SLS.	All service areas. SLS.	End November 2016.	Contractors fully understand the RBWM requirements.
11.	Consultancy agreements	SLS update the council's standard consultancy agreement to reflect the requirements of Part 7 of the Immigration Act.	SLS.	After EP October 2016.	To ensure legal compliance to legislation.
12.	Delivering differently	All reports (Employment Panel, CMT, O&S etc.) that refer to the workforce will reference RBWM's adherence to this requirement, if applicable.	All HR staff.	Immediately.	To ensure that the application of the English language requirements for public sector workers is considered when necessary.

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HM Government

Code of practice on the English language requirement for public sector workers

Part 7 of the Immigration Act 2016

October 2016, Version 1.0 preliminary

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Foreword

We want public services in the United Kingdom to be the finest in the world. To serve the public it is imperative that public servants with customer facing roles speak English fluently.

In our manifesto we said we would “legislate to ensure that every public sector worker operating in a customer-facing role must speak fluent English”. We are delivering this commitment through Part 7 of the Immigration Act 2016 which creates a duty to ensure that all public authority staff working in customer-facing roles speak fluent English or Welsh to an appropriate standard.

Our intention is to support public authorities to meet their obligations under Part 7 of the Immigration Act 2016 and so provide higher quality services to the public. We hope that this Code of Practice, once in force, will contribute to efficient and effective public services. The Code sets out considerations public authorities will need to take into account when deciding how to comply with this new legal duty, without creating more red tape in the recruitment of public sector staff. The intention is clear: a common sense approach to meeting the public’s reasonable expectation to be able to speak English when accessing public services.

This Code should be simple to comply with: nothing is required of anyone already fluent in English. The aim is to bring standards up to the best.

The Government’s intention is to bring Part 7 into force in the autumn of 2016.

Ben Gummer MP

Minister for the Cabinet Office and Paymaster General

Using the Code of Practice

Status of the Code

The relevant Minister is required to issue a Code under Part 7 of the Immigration Act 2016 for the purposes of section 80 of that Act. It is a statutory Code. This means it has been prepared by the relevant Minister and s/he has laid a draft of it before Parliament. The Code contains practical guidance on the standards and practices expected of public authorities when complying with their legal duty under the Act.

This Code is not intended to prescribe the process for every type of customer-facing role and it is not a definitive statement of the law. However, it provides principles and examples which public authorities can consider when fulfilling their legal duties and obligations.

To whom this Code applies

This Code is aimed at public authorities defined in Part 7 of the Immigration Act 2016. It aims to assist public authorities in meeting their statutory duty under Part 7 of the Immigration Act 2016.

How to use the Code

Public authorities must have regard to this Code when fulfilling their statutory duty under Part 7 of the Immigration Act 2016. Further references to that duty in this Code will be to the “fluency duty”. The Code aims to provide assistance to public authorities to determine the necessary standard of spoken English (or English or Welsh in Wales) to be met by their customer-facing staff, the appropriate complaints procedure to follow should a member of the public consider that the required standard has not been met and the appropriate forms of remedial action which may be taken if a member of staff falls below the standard required.

Although all staff in customer-facing roles will be required to speak English (or Welsh) to the necessary standard, the fluency duty does not require public authorities to ensure that their customer-facing staff speak only in English or Welsh to communicate with members of the public. Public authorities are free to provide guidance to their customer-facing staff that they may where appropriate, make use of any language skills they have to communicate with citizens who speak other languages.

This Code is made up of five sections:

- **Section 1** defines the scope of the Code.
- **Section 2** explains the appropriate ways in which public authorities can set a standard of spoken English (or Welsh) for customer-facing roles.
- **Section 3** provides options for remedial action where staff do not meet the necessary standard of spoken English (or Welsh).

- **Section 4** outlines the complaints procedure that must be followed in respect of complaints raised by a member of the public under the fluency duty.
- **Section 5** provides guidance on compliance with other legal obligations.

Examples in the Code

Examples included in this Code are intended simply to illustrate the principles and concepts used in the legislation and should be read in that light.

Territorial Extent

The Code applies to all public authorities who are subject to the fluency duty. This is all public authorities in England and in relation to Scotland, Wales and Northern Ireland public authorities exercising functions relating to non-devolved matters.

Non-devolved matters means:

- reserved matters in Scotland, as defined by the Scotland Act 1998;
- matters which are outside the legislative competence of the National Assembly for Wales, as defined by the Government of Wales Act 2006; and
- excepted matters in Northern Ireland, as defined by the Northern Ireland Act 1998.

In Scotland, Wales and Northern Ireland certain public authorities will hold a dual function and deal with both devolved and non-devolved matters. Public authorities must comply with the fluency duty and take the Code of Practice into account in respect of all staff in customer-facing roles dealing with relevant non-devolved functions, such as equality and standards officers.

Public authorities exercising functions in Wales must ensure that someone working for them in a customer-facing role dealing with non-devolved matters speaks fluent English or Welsh and comply also with the requirements of language schemes under the Welsh Language Act 1993 and/or the standards stipulated by the Welsh Language (Wales) Measure 2011.

Section 1: Introduction

Scope of the Code

Public Authorities

- 1.1. This Code applies to all public authorities defined in section 78 of the Immigration Act 2016, as bodies which carry out functions of a public nature. This includes central government departments, non-departmental public bodies, councils and other local government bodies, NHS bodies, state-funded schools, the police and the armed forces, and public corporations.
- 1.2. This Code does not apply to the security and intelligence agencies or the Government Communications Headquarters.
- 1.3. If bodies are uncertain as to whether they carry out functions of a public nature the following factors should be considered:
 - **Undertaking the responsibilities of central or local government** - the extent to which the organisation has assumed responsibility for the function in question;
 - **Public Perception** - the nature and extent of the public perception as to whether the function in question is public rather than private;
 - **Exercising statutory powers** - the nature and extent of any statutory power or duty in relation to the function in question, or whether the function involves or may involve the use of statutory powers;
 - **Publicly funded** - the extent to which the state makes payment for the function in question.
- 1.4. The duty will not initially apply to voluntary sector or private sector providers of public services. However, Part 7 of the Immigration Act 2016 gives a power to extend the duty to these sectors at a later date.

Workers

- 1.5. Public authorities are subject to the fluency duty and should have regard to the guidance in this Code in relation to all of their staff who work in customer-facing roles including permanent and fixed-term¹ employees, apprentices, self-employed contractors, agency temps, police officers and service personnel.
- 1.6. For a public sector worker whose first language is a signed language and who is in a customer-facing role, the fluency duty will be met by the provision of a sign language interpreter who speaks English or Welsh to the necessary standard of fluency for that role.
- 1.7. The fluency duty does not extend to workers employed directly by a private or voluntary sector provider of a public service, or whose work is carried out mainly or wholly outside the UK.

Member of the Public

1.8. 'Member of the public' should be given its usual dictionary meaning for members of the general population. Public authorities may use other terminology to describe a person using, interacting or receiving a service such as customer or client.

Customer-facing Roles

1.9. Members of staff who, as a regular and intrinsic part of their role, are required to speak to members of the public in English or Welsh are considered as working in a customer-facing role. Customer-facing roles would include, but are not limited to the following illustrative examples:

- *A work coach directly employed by the Department of Work and Pensions would be viewed as operating in a customer-facing role, as s/he will have face-to-face interactions with the public, in the form of claimants, on a daily basis.*
- *A local government employee working in customer service, receiving calls and fielding queries from the public would be viewed as operating in a customer-facing role, as they will have regular telephone and face-to-face interactions with the public.*
- *A teaching assistant required to communicate with pupils to support their learning, would be viewed as operating in a customer-facing role.*

1.10. As shown in these examples, both face-to-face and telephone conversations bring a role within the scope of the fluency duty. The degree of interaction with the public needs to be regular and planned to be an intrinsic part of the job role, as defined in a job description or in clear occupational goals.

1.11. The examples set out below are of roles that require occasional interaction with the public and this interaction is therefore not a regular or an intrinsic part of the role. These roles are not, therefore, considered customer-facing and would be outside the scope of the fluency duty:

- *A local authority employed street cleaner would not be viewed as a customer-facing role as their main duties do not require regular interaction with members of the public.*
- *A clerical officer or IT user technician providing internal support within an organisation would not be viewed as a customer-facing role as they are not required to communicate with members of the public over the telephone or face-to-face on a regular basis.*

1.12. When determining whether a role is customer-facing or not, employers should consider the following aspects of the work involved:

- is there a business need for interaction with the public;
- what is the frequency and form of this interaction;
- what is the level of service quality and responsiveness expected by the public;
- what is the proportion of the role which would require spoken interaction with members of the public;
- what is the nature of the role; and
- is English or Welsh language the primary language required for the role?

1.13. For example, taking these considerations into account, the fluency duty is unlikely to apply to members of staff whose role involves performing content or editorial functions for a public service broadcaster, such as journalists, programme-making

roles or broadcast output. The nature of these roles may require interaction with members of the public, but the extent, frequency and form of interaction with the public either face-to-face or by telephone is likely to be limited and thus not an intrinsic part for the effective performance of the role.

Section 2: Setting a Standard

- 2.1. This section of the Code is about setting the necessary standard of fluent English or Welsh required for a customer-facing role in a public authority to which this Code applies.
- 2.2. Public authorities must ensure that members of staff in such roles, whatever their nationality or origins, are able to speak fluent English or Welsh. This means that they must have a command of spoken English or Welsh which is sufficient to enable the effective performance of their role. The fluency duty applies in respect of existing staff as well as to new recruits.

Deciding on the Standard

- 2.3. Setting the necessary standard of English or Welsh spoken language proficiency will depend on the type of customer-facing role. Each public authority must carefully consider the nature and extent of the spoken communication which is necessary for effective performance. The following factors may be relevant when considering the standard required:
 - the frequency of spoken interaction;
 - the topic of spoken interaction;
 - whether the communication is likely to include technical, profession-specific or specialist vocabulary;
 - the typical duration of spoken interaction;
 - whether the communication is repeated in or supplemented by, written material provided to customers; and
 - the significance of the spoken interaction for service delivery.
- 2.4. Some customer-facing roles of public authorities are already subject to a language standard. It is not anticipated that public authorities will need to impose a higher standard in fulfilling the fluency duty than already required for such roles. For example:
 - Teachers in local authority maintained schools must be appraised annually against the Teachers Standards. One of the Standards states that teachers must:
“Demonstrate an understanding of and take responsibility for promoting high standards of literacy, articulacy and the correct use of standard English, whatever the teacher’s specialist subject.”
 - The General Medical Council core guidance, Good Medical Practice (2013) states:
“All doctors who practise medicine in the UK must have the necessary knowledge of English language to provide a good standard of practice and care in the UK.”
- 2.5. A standard specification of English speaking ability could include:

“An ability to fulfil all spoken aspects of the role with confidence through the medium of English or (in public functions in Wales) Welsh.”

- 2.6. The level of fluency required must however be matched to the demands of the role in question to ensure a proportionate approach to the fluency duty.

Level of Language Proficiency

- 2.7. Employers must satisfy themselves that an individual has the necessary level of fluency appropriate for the role they will be undertaking, whether an existing or a potential new member of staff.
- 2.8. Fluency relates to a person's language proficiency and their ability to speak with confidence and accuracy, using accurate sentence structures and vocabulary. In the context of a customer-facing role, a person should be able to choose the right kind of vocabulary for the situation at hand without a great deal of hesitation. They should listen to their customer and understand their needs. They should tailor their approach to each conversation appropriate to their customer, responding clearly with fine shades of meaning, even in complex situations. The Common European Framework of Reference for Languages (CEFR) provides a useful descriptor of fluency levels, a summary extract is referenced at 2.18 below.
- 2.9. Public authorities may consider using descriptors to explain to candidates the necessary level of fluency required for the role when recruiting, such as:

The ability to converse at ease with customers and provide advice in accurate spoken English is essential for the post.

- 2.10. The Welsh Language Commissioner's guidance for workplace assessments describes spoken fluent Welsh as:

‘able to conduct a conversation and answer questions, for an extended period of time where necessary.’

- 2.11. Fluency does not relate to regional or international accents, dialects, speech impediments or the tone of conversations.

Language Qualifications and Tests

- 2.12. Where a particular standard of spoken language ability has been legitimately set as an essential requirement for the role, applicants may need to be assessed on their English or Welsh-speaking ability, either through a formal test or as part of the interview process as commonly used to assess communicative competence. However, it is not envisaged that existing members of staff will all need to be tested. Where staff or job applicants are clearly fluent to the necessary standard for the role in question, no further action is necessary.
- 2.13. Public authorities should be prepared to accept a range of evidence of spoken English or Welsh language ability. There are a number of ways a member of staff or job applicant could demonstrate their fluency, including, but not limited to:
- competently answering interview questions in English or Welsh;

- possessing a relevant qualification for the role attained as part of education in the UK or fully taught in English or Welsh by a recognised institution abroad²; or
- passing an English or Welsh spoken language competency test or possessing a relevant spoken English or Welsh qualification at CEFR Level B1 or above, taught in English or Welsh by a recognised institution abroad (and from September 2017 this includes Welsh second language GCSE)³.

- 2.14. When the fluency duty is met by the provision of a sign language interpreter, the interpreter should be registered with the National Registers of Communication Professionals working with Deaf and Deafblind People (NRCPD). Registration will satisfy employers that the level of language proficiency will be met, as NRCPD Registrants will be highly skilled in a signed language like BSL, ISL or ASL and hold a second language that can be another signed language or a spoken language. One of those languages must be native to the UK and Ireland. If it is impossible, after a determined effort, to engage an NRCPD Registrant, employers must make sure the communication and language professional holds at least the qualification(s) required for NRCPD registration⁴.
- 2.15. Public authorities can, but are not required to, specify a minimum spoken English or Welsh qualification if they determine this is appropriate for a customer-facing role. The specified level must not be below the CEFR Level B1. A British General Qualification may denote a particular standard of language ability but it would not be acceptable evidence as a qualification of spoken fluency, because spoken English is not part of the overall assessment of British qualifications. Although some elements of spoken English will be assessed as part of GCSE English from 2017⁵ onwards, this is still not a generally recognised spoken language qualification or test.
- 2.16. The UK National Academic Recognition Information Centre⁶ (UK NARIC) provides information and advice about how qualifications and skills from overseas compare to the UK Regulated Qualification Framework including English language tests. Applicants may provide a letter of comparability from UK NARIC for public authorities to use in the selection process.
- 2.17. The Common European Framework of Reference for Languages⁷ (CEFR) was put together by the Council of Europe as a way of standardising the levels of language tests and qualifications across national and regional languages. It provides a good reference point for authorities by describing the levels of spoken interaction and fluency, with a wide-range of available information and guidance for setting standards. It is very widely used internationally and language exams are often mapped to the CEFR Levels.

² Recognised institutions: <https://www.gov.uk/check-a-university-is-officially-recognised/overview>

³ <http://qualificationswales.org/news/update-gcse/?lang=en>

⁴ <http://www.nrcpd.org.uk/training>

⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/432097/2015-06-04-assessment-of-spoken-language-in-the-new-gcse-english-language.pdf

⁶ <https://www.naric.org.uk/naric/>

⁷ <http://www.coe.int/lang-cefr>

2.18. The table below provides a useful summary extracted from the CEFR levels⁸ of fluency:

CEFR Certificate	Description	Linguistic Fluency
B1	Threshold or intermediate	<ul style="list-style-type: none"> • Can exploit a wide range of simple language flexibly to express much of what he/she wants. • Can keep going comprehensibly, even though pausing for grammatical and lexical planning and repair is very evident, especially in longer stretches of free production.
B2	Vantage or upper intermediate	<ul style="list-style-type: none"> • Can adjust to the changes of direction, style and emphasis normally found in conversation. • Can produce stretches of language with a fairly even tempo; although he/she can be hesitant as he or she searches for patterns and expressions, there are few noticeably long pauses.
C1	Effective operational proficiency or advanced	<ul style="list-style-type: none"> • Can express him/herself fluently and spontaneously, almost effortlessly. Only a conceptually difficult subject can hinder a natural, smooth flow of language.
C2	Mastery or proficiency	<ul style="list-style-type: none"> • Can express him/herself spontaneously at length with a natural conversational flow, avoiding or backtracking around any difficulty so smoothly that the customer is hardly aware of it.

2.19. There are a range of external assessment tools available to determine English language competency. English language courses and tests examples include, but are not limited to:

- International Speaking and Listening (IESOL) Diploma: City and Guilds
- International English Language Testing System (IELTS): Cambridge English Language Assessment
- EIKEN test in Practical English Proficiency: The Society for Testing English Proficiency (STEP)
- Europass – self assessment language passport: Council of Europe.

2.20. Some workforce groups are already subject to specific language standards that require assessment or qualifications and these are likely to be sufficient evidence of the necessary standard to fulfil the fluency duty for their role:

Health

Many of the statutory health regulatory bodies have adopted the use of IELTS to assess workers for the health care setting. The overall IELTS English language test score of 7.0 has been set, this is the equivalent of C1 of the Common European Framework for Reference of Languages.

2.21. The Home Office sets language requirements as a condition of granting immigration status in some cases. Individuals from outside the EEA who make an immigration application may need to provide evidence that they have passed an appropriate language test listed by the Home Office⁹. Whilst these are not tailored to employment, public authorities may wish to have regard to such tests when

⁸ http://www.coe.int/t/dg4/education/elp/elp-reg/Source/Key_reference/Overview_CEFRscales_EN.pdf

⁹ <https://www.gov.uk/government/publications/guidance-on-applying-for-uk-visa-approved-english-language-tests>

determining whether an individual meets the required standard for a particular customer-facing role. However, employers will need to satisfy themselves independently that members of staff or prospective employees have the necessary level of fluency for the role.

Policies and Practices

2.22. Each public sector organisation will need to review HR policies and practices to ensure that they reflect the fluency duty as well as comply with existing legislation. In order to fulfil the fluency duty public authorities should consider if it is appropriate to:

- make all customer-facing members of staff aware of this new duty and explain the possible actions which may be taken if their proficiency in spoken English or Welsh is found to be insufficient;
- ensure existing selection and appointment practices facilitate compliance with the fluency duty and inform those responsible for evaluating candidates of the spoken language requirements for the role in question in each case;
- stipulate in contracts of employment the standard of fluent English or Welsh required for the role;
- ensure that their recruitment processes do not contravene the Equality Act 2010; all job applicants must be treated in the same way at each stage of their recruitment process (save for any reasonable adjustments required for disabled applicants);
- make clear in adverts and job descriptions the necessary standard of spoken English or Welsh required for the sufficient performance of the customer-facing role;
- ensure consistency when advertising for similar types of customer-facing roles; and
- ensure those responsible for evaluating candidates understand the spoken language requirements for the role. Interview panel members should be provided with an objective method of evaluating candidates against clear criteria set out in the role specification.

2.23. Public authorities in Wales should be mindful that their selection and appointment policies and practices will also need to comply with the Welsh Language Act 1993 and/or the Welsh Language (Wales) Measure 2011.

Agency workers

2.24. Agency staff are engaged to work for public authorities under the terms of a contract between the public authority and an employment agency. For customer-facing roles the instructions of public authorities to employment agencies should include reference to the standard of spoken English or Welsh required, which will help ensure that the employment agency only supplies candidates who meet the necessary standard. This can be integrated into the service level agreement.

2.25. The selection of agency workers can be undertaken under pressure of time and without the degree of formal assessment applied to the recruitment of employees. However, public authorities must ensure that included in the selection process for agency workers is a specific assessment of their ability to speak English or Welsh to the necessary standard required for the customer-facing role. No higher or lower

standard of spoken English or Welsh should be applied to agency workers than to employees of the public authority working in an equivalent role.

Section 3: Remedial Action

- 3.1. This section of the Code explains the actions which may be taken by a public authority where a person who works in a customer-facing role does not meet the necessary standard of spoken English or Welsh. This may become apparent because of a complaint received from a member of the public or as a result of performance management.
- 3.2. It is the responsibility of the public authority to implement measures to support members of staff in customer-facing roles who are found to not demonstrate the necessary standard of spoken English or Welsh fluency.

Training

- 3.3. Public authorities should consider providing training or re-training to support their staff to meet the requirements of the fluency duty. Suitable training courses or qualifications determined by the organisation must reflect the necessary standard of fluent English or Welsh required. The interventions must give the member of staff the opportunity to meet the necessary standard within a reasonable period. Where appropriate, public authorities should meet the cost of training and enable members of staff to undertake training during their working hours. Staff already clearly fluent should not need training however, managers may consider supporting those who have themselves identified learning needs, as part of regular learning and development practices.
- 3.4. Public authorities in Wales are already required to comply with any standards specified in accordance with the Welsh Language (Wales) Measure 2011 in planning for and training its workforce. It is therefore likely that such authorities will already have provisions in place to support staff to meet the necessary standard of fluent Welsh required for any customer-facing role.
- 3.5. Public authorities should consider individual learning and development needs to determine which aspects of spoken communicative competence needs to be addressed and the nature of any training should, if possible, be agreed with the member of staff.
- 3.6. There are many resources and means of providing training and support for employees to develop their spoken language proficiency to the necessary level, such as:
 - Listening to language podcasts;
 - Mobile language applications;
 - Providing an internal mentor or coach;
 - Online resources:
 - communities – supports interaction and practice of language through conversation, study and social exchange with others;
 - self-study and tutoring – these often offer individual study plans and access to interactive study material and support from qualified teachers;

- courses and vocabulary training – there are many free courses and on-line resources available, for example from the British Council¹⁰ or the BBC.
 - Interactive language programmes;
 - More traditional language classes are available in a number of community venues and educational institutions.
- 3.7. One of the best ways to improve language skills is to converse with native speakers. One-to-one support with someone who understands the context of the role is likely to help individuals currently operating in the workplace more than a generic English or Welsh language class.

Re-deployment

- 3.8. If the member of staff does not meet the necessary standard of spoken English or Welsh fluency, adjustments to their role may also be considered, such as reducing the frequency of communications with the public or supplementing communications with written material to customers. Consideration could also be given to moving or job swapping the individual to a non-customer-facing role.

Dismissal

- 3.9. Public authorities must ensure that fair and consistent policies are in place in respect of the fluency duty and that these are effectively communicated to staff and managers.
- 3.10. Members of staff must be given a reasonable opportunity to meet the necessary standard of spoken English or Welsh fluency. As a last resort, the public authority could consider dismissing the individual on the basis that they are not capable of fulfilling their duties, for example if:
- a member of staff has unreasonably refused to undertake training aimed to bring them up to the necessary standard for their role; or
 - a member of staff has not been able to attain the standard of fluent English or Welsh required for the role within a reasonable amount of time, after reasonable training opportunities have been provided; or
 - no other suitable post without customer-facing duties can be made available for that individual.
- 3.11. Prior to the dismissal of an employee, a public authority must ensure that the situation has been investigated fully in accordance with its capability and disciplinary procedures. All other usual policies and procedures should be followed to give the employee the opportunity to explain their position and provide mitigation, including an opportunity for the employee to appeal against a disciplinary decision. Public authorities should only consider dismissal after considering all reasonable alternatives and where appropriate, take legal advice.

¹⁰ <http://learnenglish.britishcouncil.org/en/>

3.12. During this process public authorities should adhere to the Advisory, Conciliation and Arbitration Service Code of Practice on Disciplinary and Grievance Procedures¹¹ as appropriate.

Agency workers and self-employed contractors

3.13. Agency workers are not employed by a public authority and the terms on which they are engaged depend on the contract between the employment agency and the public authority and their own arrangements with the employment agency. If an individual agency worker is unable to meet the necessary standard of spoken English or Welsh fluency, a public authority can consider terminating the agreement with the employment agency for their engagement in accordance with the terms of the contract between the employment agency and public authority.

3.14. Self-employed contractors work for public authorities in accordance with the terms of a services contract. The terms of the contract will determine the steps which a public authority can reasonably take should the individual fail to meet the necessary standard of spoken English or Welsh fluency required for a customer-facing role.

¹¹ <http://www.acas.org.uk/media/pdf/f/m/Acas-Code-of-Practice-1-on-disciplinary-and-grievance-procedures.pdf>

Section 4: Complaints Procedure

4.1. This section of the Code is about the procedure a public authority should follow should there be a complaint regarding an alleged breach of the fluency duty.

Complaint Handling

4.2. A public authority must operate a complaints procedure so that if a member of the public feels that a customer-facing public authority worker has insufficient proficiency in spoken English or Welsh for the performance of their role they can make a formal complaint to the public authority which is then investigated and a response provided.

What is a complaint?

- 4.3. For the purposes of the fluency duty, a legitimate complaint is one about the standard of spoken English or Welsh of a public sector member of staff in a customer-facing role. It will be made by a member of the public or someone acting on his or her behalf complaining that the authority has not met the fluency duty.
- 4.4. A complaint about a public sector member of staff's accent, dialect, manner or tone of communication, origin or nationality would not be considered a legitimate complaint about the fluency duty. Public authorities should make this clear in the terms of their complaints policy.
- 4.5. Public authorities are not obliged by this Code of Practice to respond to complaints that are vexatious, oppressive, threatening or abusive. These words should be given their usual dictionary meaning and should be seen as those complaints which are without foundation and/or which are intended to result in harsh or wrongful treatment of the person who is the subject of the complaint. In these types of circumstances a complaint should not be taken forward by the public authority.

Providing effective means for the public to make complaints

- 4.6. Knowing how to complain and what will happen when a complaint is made is essential to confidence in public services. The public needs information about the complaints system: who can make a complaint, how they go about it and what complaints come within the scope of the fluency duty.
- 4.7. Public authorities are responsible for dealing with such complaints and must therefore:
- establish an appropriate complaints procedure, using existing channels where appropriate
 - update their complaints procedure as necessary;
 - provide first and second line managers and supervisors with an appropriate level of training and support to enable them to deal with complaints confidently and professionally;
 - adequately publicise and signpost the complaints procedure;

- ensure appropriate reasonable adjustments are in place so that all members of the public are able to make a complaint;
 - ensure that complaints are dealt with in line with the Data Protection Act 1998;
 - ensure that all legitimate complaints are treated seriously;
 - ensure complaints are progressed and complainants receive a response efficiently and in a timely manner. Some complaints may take longer to resolve than others and the likely timescale should be made clear; and
 - ensure the complainant or their representative are made aware of any escalation route in relation to the decision on the complaint, for example to an ombudsman service. Escalation routes across the public sector will vary however, if a public authority does not comply with the fluency duty, its failure to comply can also be challenged through an application to the High Court for judicial review.
- 4.8. Following the receipt of a legitimate complaint, public authorities must assess its merits against the necessary standard of spoken English or Welsh fluency required for the role in question. This should be undertaken through an objective assessment against clear criteria set out in the role specification or against the level of fluency descriptors relevant to the role in question. The table above at 2.17 in Section 2, provides a useful summary extracted from the CEFR levels¹² of fluency.
- 4.9. If the complaint is upheld, a public authority must consider what steps can be taken to meet the fluency duty. Steps may include specific training, retraining or assessment, re-deployment or dismissal. Public authorities should refer to Section 3 of this Code of Practice and ensure they take account of the:
- nature of the complaint,
 - information received from the complainant or their representative,
 - complainant's expectations of an outcome.
- 4.10. Members of staff who are the subject of a complaint should be notified of the complaint and the action being taken in relation to it. They should be given the opportunity, as soon as practicable, to give their own account of the facts leading to the complaint. The complaints procedure should make it clear to prospective complainants that this will take place following a legitimate complaint. Public authorities must also ensure:
- that staff who are the subject of a complaint are kept fully informed at each stage of the complaints process,
 - that complaints are dealt with efficiently and brought to a timely conclusion.
- 4.11. Public authorities have a duty of care toward their members of staff and should consider their wellbeing, being mindful of the potential impact complaints may have. They should consider providing staff with appropriate support to ensure that they are protected from vexatious complaints and not subjected to unnecessary fluency testing.
- 4.12. Public authorities in Wales must also ensure their complaints practices and procedures meet the requirements of any schemes under the Welsh Language Act

¹² http://www.coe.int/t/dg4/education/elp/elp-reg/Source/Key_reference/Overview_CEFRscales_EN.pdf

1993 and any relevant standards specified under the Welsh Language (Wales) Measure 2011 relating to complaints.

Complaints data

- 4.13. As standard practice, a record should be kept of all complaints. If authorities publish their complaints data, they should include any complaints that fall under the fluency duty. At the time of publishing this guidance, the fluency duty does not require public authorities to publish complaints data.
- 4.14. Public authorities in Wales subject to the Welsh Language (Wales) Measure 2011 must also ensure they comply with standards relating to a body keeping records. This also requires authorities to keep a copy of any written complaints that they receive that relates to the Welsh language, whether or not that complaint relates to the standards with which they are under a duty to comply.

Section 5: Compliance

5.1. This section of the Code is about how a public authority should comply with its other legal obligations as well as complying with the fluency duty.

Obligations under the Equality Act

5.2. Public authorities must take into account their obligations under the Equality Act 2010 when considering their duty to ensure that each person in a customer-facing role speaks fluent English or Welsh. The processes and methods used to determine whether a person has a command of spoken English or Welsh for effective performance in the role must be fair and transparent.

5.3. It is unlawful to discriminate directly or indirectly against a person on grounds of race. Public authorities should ensure that people from particular nationalities or ethnic backgrounds, in a recruitment process or whilst at work, are treated in the same way as people from an English or Welsh ethnic background. When a public authority considers a complaint in relation to the fluency duty it should reject any complaint which relates to the customer-facing worker's race, nationality, ethnic origin or disability.

5.4. Public authorities have a duty towards disabled members of staff under the Equality Act 2010 to provide such adjustments as are reasonable to remove a disadvantage caused by the application of a particular provision, criterion or practice. For a public sector worker whose first language is a signed language, the fluency duty will be met by the provision of a sign language interpreter who speaks English or Welsh to the necessary standard of fluency for that role.

5.5. The public sector equality duty (PSED) came into force in England, Scotland and Wales in 2011. The PSED is set out at Section 149 of the Equality Act 2010. It requires that those public authorities in scope must, when exercising their functions, have "due regard" to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Equality Act 2010;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Other Legal Obligations

5.6. In Wales, the Welsh language should be treated no less favourably than the English language. The Welsh Language (Wales) Measure 2011 sets a new legal context for the Welsh language. This creates a legislative framework for enforcing duties on persons operating in Wales with regard to the Welsh language.

5.7. Although the fluency duty and the Welsh Language (Wales) Measure 2011 are different in their application and policy intent, relevant public authorities in Wales

should consider obligations required under the Welsh Language (Wales) Measure 2011 when deciding how to comply with the fluency duty.

- 5.8. Many of the public authorities subject to the standards of the Welsh Language (Wales) Measure 2011 currently operate Welsh Language Schemes under the Welsh Language Act 1993. Each public authority will still be obliged to comply with its Welsh Language Scheme, as approved under the Welsh Language Act 1993, until such a time as that public authority becomes subject to standards under the Welsh Language (Wales) Measure 2011.
- 5.9. Public Authorities may have specific legal duties towards members of the public, for example under the Medical Act 1983, which will inform the decision as to the standard of spoken English or Welsh required for particular customer-facing roles.
- 5.10. Additionally, as referred to in paragraph 2.4 above, a certain standard of fluency in English or Welsh can be required as an entry requirement for some roles, or stipulated by the regulatory body of certain professionals. This will inform the decision as to the standard of spoken English or Welsh required for particular customer-facing roles: it is not anticipated that public authorities will impose any higher standard in fulfilling the fluency duty than are already required for such roles.

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Appendix C

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

ENGLISH LANGUAGE REQUIREMENT FOR PUBLIC SECTOR WORKERS

Guidance for managers and schools

This guidance covers:

- Background to the requirements.
- Defining customer facing roles.
- English language fluency standard.
- Assessment of fluency.
- Job accountabilities/person specification
- Current staff.
- Other workers.
- Complaints.

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Author: Human Resources

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1. Introduction

- 1.1 The government's manifesto included a statement that they would 'legislate to ensure that every public sector worker operating in a customer facing role speaks fluent English.' Part 7 of the Immigration Act 2016 creates a duty to ensure that all public sector workers in a 'customer facing' role can speak fluent English to an appropriate standard.
- 1.2 A statutory Code of Practice has been published and can be viewed [here](#). This document sets out the approach the council has taken to implement the requirements that take effect from October 2016.

2. Defining customer facing roles

- 2.1 The code covers all staff working in customer facing roles including fixed term, apprentices, agency workers and self employed contractors. Customer facing roles are defined as those for whom speaking to members of the public is a 'regular and intrinsic' part of the role. Services and schools are required to identify the roles they consider fall into this category.
- 2.2 When considering which roles should be defined as customer facing, consideration should be given to the following aspects of the role:
 - is there a business need for interaction with the public.
 - what is the frequency and form of this interaction.
 - what is the level of service quality and responsiveness expected by the public.
 - what is the proportion of the role which would require spoken interaction with members of the public.
 - what is the nature of the role.
 - is English language the primary language required for the role.
- 2.3 Some examples of roles and whether they should be considered customer facing are set out in Appendix A.
- 2.4 The classification of a role a customer facing is a judgement based on the knowledge of the role by the service or school.

3. English language fluency standard

- 3.1 The council must identify a level of fluency and the following factors may be relevant when considering the standard required:
 - the frequency of spoken interaction.
 - the topic of spoken interaction.
 - whether the communication is likely to include technical, profession-specific or specialist vocabulary.
 - the typical duration of spoken interaction.
 - whether the communication is repeated in or supplemented by, written material provided to customers.
 - the significance of the spoken interaction for service delivery.

- 3.2 Using guidance in the Code of Practice, the following minimum standard will be applied to all customer facing roles:

‘The ability to converse at ease with the public, answer questions and provide advice, including the use of specialist terminology relevant to the job role/profession and where necessary for an extended period of time.’

4. Assessment of fluency

- 4.1 All organisations have to define what evidence it will use to assess fluency or language competence. The council will assess English language competency at interview, through the competent answering of interview questions in English.
- 4.2 The assessment is based on competency/fluency in the English language and care must be taken not to allow accent, dialect, origin or nationality to deflect from the individual’s language performance.
- 4.3 This method of assessment can be reviewed and amended if required.

5. Person specification

- 5.1 All customer facing roles will have this status identified in the person specification. The following statement should be added:

‘This post has been identified as customer facing in accordance with Part 7 of the Immigration Act 2016 and therefore the council’s English language fluency standard applies.’

- 5.2 The standard set out in 3.2, will be added as an essential requirement of the person specification and the criteria set out in section 4.2 will be added to the person specification.
- 5.3 Appendix B contains an example of a person specification for a customer facing role.

6. Current staff

- 6.1 The English language requirement applies to existing staff as well as new recruits. All current staff must be informed of this new requirement. This will be undertaken by HR.
- 6.2 There is however no requirement to test existing staff. However it is possible that some current employees are identified through performance management processes as not meeting the standard. If managers/schools identify any cases then they should make contact with the HR Business Partner team for advice and support.

7. Other workers

- 7.1 The fluency requirement also applies to agency workers and self employed contractors. HR will advise all approved/contracted agencies of the customer facing status of roles and standard that the council has adopted. Schools should make contact with any agencies they use.
- 7.2 Managers/schools will need to review the roles of self employed contractors in the light of this requirement. Where the standard is not met, advice should be sought from whoever provides legal advice.
- 7.3 The council's standard Consultancy agreement will be updated to include a clause on English language fluency.

8. Complaints

- 8.1 The Code of Practice sets out the procedure that 'must be followed' when a complaint is made by a member of the public, when they consider that the 'required standard has not been met'.
- 8.2 The council's Corporate Complaints Procedure will state 'RBWM will investigate complaints made against its employees by members of the public who consider that the individual was unable to speak fluent English to an appropriate standard, as defined by Part 7 of the Immigration Act 2016'.
- 8.2 A complaint about an employees' accent, dialect, manner or tone of communication, origin or nationality would not be considered a legitimate complaint about their ability to speak fluent English.
- 8.3 The council's Corporate Complaints Procedure has been reviewed and reflects the requirements of the Code. Schools should review their own complaints procedure.

9. Review

- 9.1 This document will be reviewed regularly and revised as required.

Appendix A

Examples of roles and suggested customer facing status

Job role	Comments	Customer facing
Customer Services Assistant	Receives incoming calls from the public, answers questions, gives information and advice.	Yes
Teaching Assistant	Supporting pupils in class.	Yes
Administration Officer	Range of administrative tasks supporting a team, role is internally focussed and only occasionally receives external calls from members of the public.	No
Administration Officer	Range of administrative tasks supporting a team, provides the team with first point of contact support for calls from members of the public.	Yes
Parking Officer	Regular contact with members of the public, when patrolling parking areas.	Yes
Payroll Assistant	Regular contact with staff, occasional contact with external organisations.	No
Library Assistant	Provides information, help and support to access resources to the public/pupils.	Yes
Highways Operative	Part of a team, with occasional interaction with members of the public.	No
Social Worker	Works with case load of clients.	Yes
Environmental Health Officer	Delivers services to customers, residents and businesses.	Yes
Highways Engineer	Manages allocated projects, with some very limited with external organisations, members of the public.	No
Planning Officer	Manages a case load of applications, with regular contact with the public, businesses and professional organisations.	Yes
Cover Supervisor	Oversees a class in the absence of the teacher, supports pupils with allocated work.	Yes
Accountancy Technician	Part of a team, with occasional interaction with members of the public.	No

Appendix B

Person specification

Key Criteria	Essential	Desirable	How assessed
Qualifications and training			
Job Competence summary (knowledge, skills, abilities, experience)			
This post has been identified as customer facing in accordance with Part 7 of the Immigration Act 2016 and therefore the council's English language fluency standard applies.	The ability to converse at ease with the public, answer questions and provide advice, including the use of specialist terminology relevant to the job role/profession and where necessary for an extended period of time.		The competent answering of interview questions in English.

Report for: *ACTION*



Contains Confidential or Exempt Information	<i>NO - Part I</i>
Title	UNISON and GMB Pay Claim for 2016/17
Responsible Officer(s)	Terry Baldwin, Head of HR
Contact officer, job title and phone number	Terry Baldwin, Head of HR 01628 796992
Member reporting	Councillor L Targowska
For Consideration By	Employment Panel
Date to be Considered	CMT – 5 October 2016. EP – 18 October 2016
Implementation Date if Not Called In	1 April 2017
Affected Wards	None

REPORT SUMMARY

1. This report deals with the annual pay claim submitted by UNISON and GMB trade unions. It covers all staff on local terms and conditions, including Heads of Service, Directors and Managing Director.
2. It recommends that Employment Panel reviews and considers the information provided by UNISON and GMB in relation to any pay award to be applied from April 2017.
3. These recommendations are being made because the Council has a local agreement with the trade unions to determine the annual pay award for non school based staff.
4. In the event that a pay award is made, the financial implications for the Council are set out in section 4.1.

If recommendations are adopted, how will residents benefit?

Benefits to residents and reasons why they will benefit	Dates by which residents can expect to notice a difference
Local control over salary costs means that the Council can respond to local needs and manage its salary budgets more effectively.	Ongoing

1. DETAILS OF RECOMMENDATIONS

RECOMMENDATION: That Employment Panel:

- i. Review the information supplied in this report and appendices as part of the consideration of the annual pay review for eligible staff for 2016/17.
- ii. Identify any additional option(s) that it wishes HR to explore or develop further for its consideration.
- iii. Inform the trade unions of the pay award and pay reward decision in February 2017, after the February Cabinet meeting.

2. REASON FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

Local pay, terms and conditions framework agreement

- 2.1 The local pay determination framework covers all non school based staff. Under the framework, the trade unions are able to submit their pay and reward claim each year for consideration by Employment Panel.
- 2.2 In accordance with the framework, following Cabinet's approval of budgets, Employment Panel should advise trade unions of the pay and reward settlement for 2017/18.

Trade Union pay claim

- 2.3 The trade unions are able to submit a claim for a pay award (movement of salary scales), pay reward (pay for performance) or mixture of both. The trade unions have chosen to only submit a claim for a pay award.
- 2.4 UNISON and GMB have submitted a joint claim; see Appendix A, as follows:
 - A 5% across the board increase on all salary points and allowances, or a flat rate increase on all salary points of £500 whichever is the greater
 - A commitment to abide by the outcome of the review of term time working called for by the NJC trade union side.

Initial response to the pay claim

- 2.5 The cost of their pay claim has been modelled, see Appendix B. The cost equates to an additional cost to salary budgets of £2,005,832.
- 2.6 The majority of staff who work term time working hours are in schools and not covered by local terms and conditions and are therefore unaffected by this claim. There are currently 45 members of staff on local pay terms who are paid less than a full year's weeks (52.143). Of those, 24 employees work 44.1 hours per year, which are generally seen as term time weeks.
- 2.7 Clarification was requested and UNISON have provided the following response:

The terms of the Term Time working review are still being discussed between the parties on the NJC, but may include:

1. *To collect data on the use of term time contracts in schools and the methods used to calculate the pay of term time only staff.*

2. *To research and review inconsistencies and produce joint advice to ensure fair consistent and transparent contracts on issues such as pay, annual leave, time off in lieu of bank holidays, maternity, paternity and adoption leave and pay, sick pay, pensions, special leave, school closures and redundancy payments.*
3. *Look at all aspects of term-time working in schools, including differences between support staff and teaching colleagues.*
4. *Review any relevant work initiated by the Schools Support Staff Negotiating Body*
5. *Commend jointly agreed advice to all employers including academies and opted out councils*

The justification for this is that the joint unions believe that school support staff should be treated in the same way as teachers and employed on full year contracts. The current division in practice causes unnecessary divisions and penalises a low paid predominantly female workforce.

The use of term time contracts across the country is inconsistent, both between different employers and in places by different schools within them. Employees are also often confused about their own entitlements due to the complexities in term-time contracts and formulas. Holiday entitlement suffers from a lack of legal clarity - term-timers are in continuous employment, unable to claim out-of-work benefits but able to claim in-work benefits, yet in some places do not accrue full years leave.

There are many variations and inconsistencies in the formulas used for calculating the pay of term time only employees and a lack of clarity on the entitlement to paid annual leave. . Employers, even within a single authority, have a variety of term-time contract pay calculations, which makes it difficult to identify who is being paid what, and for how many weeks.

- 2.8 The unions have not yet stated whether they will attend Employment Panel to present the details of their claim.

Further Employment Panel Pay Award/Pay Reward decisions

- 2.9 Once the salary increase budget is formalised following the Cabinet meeting in February 2017, HR will model a range of options and ratios. Any agreed pay ratios will be confirmed at Employment Panel in March 2017.

Local and economic information

- 2.10 Appendix C sets out background information on recent RBWM annual pay settlements, the level of pay awards nationally and some economic information.

3. KEY IMPLICATIONS

- 3.1 The details of the UNISON and GMB claim are attached in Appendix A. The agreed pay settlement will be developed once Employment Panel has identified its preferred option for the 2017/18 pay settlement.

4. FINANCIAL DETAILS

Financial impact on the budget

- 4.1 The maximum cost of the increase, based on the UNISON pay claim is broken down as follows:

	Annual salary	5% or £500 increase, whichever is the greater.	Increase plus 24% on-costs
Permanent staff remuneration	38,702,779	1,935,298	40,638,077
Casual	575,714	28,786	604,499
Overtime	834,963	41,748	876,711
Total	40,113,455	2,005,832	42,119,288

	2015/16	2016/17	2017/18
	Revenue £'000	Revenue £'000	Revenue £'000
Addition	£0	£0	£2,006
Reduction	£0	£0	£0

b) Financial Background

- 4.2 Financial data is modelled on existing staffing numbers and does not take into account any reductions in staff following the delivering differently initiative.

5. LEGAL IMPLICATIONS

- 5.1 None. The Council has a local pay, terms and conditions agreement between it and its recognised trades unions being Unison and the GMB which was entered into in December 2014. The framework is for the determination and ongoing local pay and reward on a year by year basis with the intention of resolving all disputes through ongoing dialogue. Both parties will endeavour to always enter into discussions with a view to reaching a mutually acceptable agreement. The agreement incorporates an annual consultation and negotiation meeting schedule.

6. VALUE FOR MONEY

- 6.1 The final costs will be modelled and developed once the Employment Panel has identified its preferred pay settlement options in February 2017.

7. SUSTAINABILITY IMPACT APPRAISAL

- 7.1 None.

8. RISK MANAGEMENT

- 8.1 The details of the risks will be developed once Employment Panel has identified its preferred options.

9. LINKS TO STRATEGIC OBJECTIVES

9.1 Local management of RBWM pay costs enables us to reflect our local needs and employ the staff required to deliver our objectives.

10. EQUALITIES, HUMAN RIGHTS AND COMMUNITY COHESION

10.1 An EQIA will be undertaken on the options to be considered further as identified by EP.

11. STAFFING/WORKFORCE AND ACCOMMODATION IMPLICATIONS

11.1 None.

12. PROPERTY AND ASSETS

12.1 None.

13. ANY OTHER IMPLICATIONS

13.1 None.

14. CONSULTATION

14.1 The Head of HR or nominated deputies consult regularly with the Trade Unions, and this process has followed the agreed timetable.

15. TIMETABLE FOR IMPLEMENTATION

15.1 In accordance with the Local Pay Framework, the timetable is set out below:

Month	Pay and reward cycle
July	Process starts <ul style="list-style-type: none">• Officers and trade unions enter into informal discussions on the potential scope and settlement of pay and reward for the implementation on the following 1 April.• The purpose of these discussions is to enable the Council to assist the trade unions in the preparation of their claim.• This is an informal phase and is aimed at ensuring that both sides can have an early view of each others expectations and constraints
August	<ul style="list-style-type: none">• Trade unions may request initial/informal pay modelling to be undertaken or additional information provided to support their claim
September	<ul style="list-style-type: none">• Trade unions submit their formal pay and reward claim so that management can incorporate it into a report for Employment Panel• Management side (Officers) undertakes the pay modelling of the formal proposals and share this with the trade unions, including EIA

October	<ul style="list-style-type: none"> Trade Unions make formal presentation of pay and reward claim to Employment Panel Trade unions may attend Employment Panel, if they require.
December	<ul style="list-style-type: none"> The Council's annual budget setting process takes place
February	<ul style="list-style-type: none"> RBWM Cabinet approves budget for the new financial year Employment Panel advise trade unions of pay and reward settlement for implementation on the following 1 June, backdated to 1 April Employment Panel advise affected staff of pay and reward settlement for implementation on the following 1 June, backdated to 1 April Trade unions may ballot their members on proposed pay settlement
March	<ul style="list-style-type: none"> Staff appraisal process takes place
April	<ul style="list-style-type: none"> Staff appraisal process to be concluded by 30 April
May	<ul style="list-style-type: none"> Pay award is linked to appraisal scores Trade unions advise management of outcome of ballot
June	<ul style="list-style-type: none"> Agreed pay award and reward is implemented for all staff on local pay, terms and conditions and backdated to April <p>Process ends</p>

16. APPENDICES

Appendix A – trade union claim overview

Appendix B – modelled pay claim data

Appendix C – background information on previous pay awards and labour market data

17. BACKGROUND INFORMATION

17.1 None.

18. CONSULTATION (MANDATORY)

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
Internal				
	Leader of the Council			
Cllr Lisa Targowska	Principal Member			
Russell O'Keefe	Strategic Director Corporate and Community	05.10.16		

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
	Services			
Alison Alexander	Managing Director/ Strategic Director Adults, Children and Health	05.10.16		
Simon Fletcher	Strategic Director Operations and Customer Services	05.10.16		
Richard Bunn	Deputy Head of Finance			
	Cabinet Policy Officer			

REPORT HISTORY

Decision type:	Urgency item?
Non-key decision	No

Full name of report author	Job title	Full contact no:
Vanessa Faulkner	HR Manager – Strategy and Development	01628 685622

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ROYAL BOROUGH OF WINDSOR & MAIDENHEAD LOCAL PAY CLAIM 2017

INTRODUCTION

This pay claim is submitted by UNISON and GMB on behalf of UNISON and GMB members employed by the Royal Borough of Windsor & Maidenhead.

The claim is for the following:

- Appropriate reward for the major change our members have experienced. Large numbers of reorganisations took place during the last financial year, and now every Directorate is facing the potential for further major reorganisation over the coming months, potentially involving outsourcing and alternative delivery models. Overall there has been and promises to be a high level of upheaval and disturbance in staff's working lives this year and next;
- reward for the increasing stress faced by front line workers arising from the anxiety caused by an uncertain future given these proposals, and the pressures caused by severe staffing shortages in Adult and Children's social care;
- a substantial above inflation pay rise to help restore and maintain employees living standards;
- a settlement weighted towards the, often female, lower paid members of the workforce who have done least well in monetary terms out of recent pay awards.

UNISON and GMB are therefore submitting the following joint claim for 2017, which seeks to improve and enhance the morale and productivity of our members. Meeting our claim will give the the Royal Borough of Windsor & Maidenhead the opportunity to demonstrate its commitment to creating a workforce, which is well paid and high in morale and productivity. The claim is straightforward and realistic.

SUMMARY CLAIM

We are seeking:

- A 5% across the board increase on all salary points and allowances, or a flat rate increase on all salary points of £500 whichever is the greater
- a commitment to abide by the outcome of the review of term time working called for by the NJC trade union side

1. BACKGROUND TO THE CLAIM

A substantial increase will help restore and maintain living standards of the staff who have seen their real pay eroded considerably.

UNISON consultation – UNISON consulted all affected members employed by RBWM through an online survey, and in person at the main RBWM workplaces. The respondents to the survey were predominantly women, earning over £30,000 a year and working full-time. For most of them this is their main and only job and most are the sole wage earner in their household. We asked members whether or not they wanted us to put in a pay claim asking for a percentage rise for all staff, or a set of percentages based on performance, and the vast majority responded that we should ask for a percentage rise for all regardless of performance with a lump sum for those at the lower end of the pay scale. We also asked members what they most wanted to see as changes to the current Pay Reward Scheme, and these responses will be fed into the consultation process on this.

GMB consultations - GMB undertook a collective consultation with members through the summer period. There were a number of consultation meetings at different venues of RBWM whereby GMB members had an opportunity to complete an anonymous pay survey followed by an open discussion regarding their expectations. GMB reps also consulted with members on an individual basis. Following workplace consultations, GMB members who were unable to attend in person, were sent via email, the pay survey to ensure that as much feedback as possible be obtained. This was to ensure that the submitted pay claim fully represented our members views and expectations. GMB members would welcome the increase to their hourly rate or a lump added to the yearly salary as this will reflect permanently on their earnings.

The greatest asset of the the Royal Borough of Windsor & Maidenhead is its employees. In this pay round, our members are looking for evidence of the value that the the Royal Borough of Windsor & Maidenhead places upon them and a share in the economic recovery.

This claim is both realistic and fair. The following gives full justification for the claim. UNISON and GMB hope that the the Royal Borough of Windsor & Maidenhead will give this claim the full consideration and response which employees expect and richly deserve.

2. COST OF LIVING

According to the Office for National Statistics (ONS):

The Retail Prices Index rose from 222.8 (April 2010) to 261.4 (April 2016) – an increase of 17.3% (January 1987 = 100). Over the same period the Consumer Prices Index rose from 89.2 (April 2010) to 100.2 (April 2016) – an increase of 12.33% (2015=100).

Salary April 2010	April 2016 salary that maintains real value. (Salary April 2010 uprated in line with RPI)
10000	11733
12000	14079
15000	17599
18000	21119
20000	23465
25000	29331
30000	35198
40000	46930
50000	58663

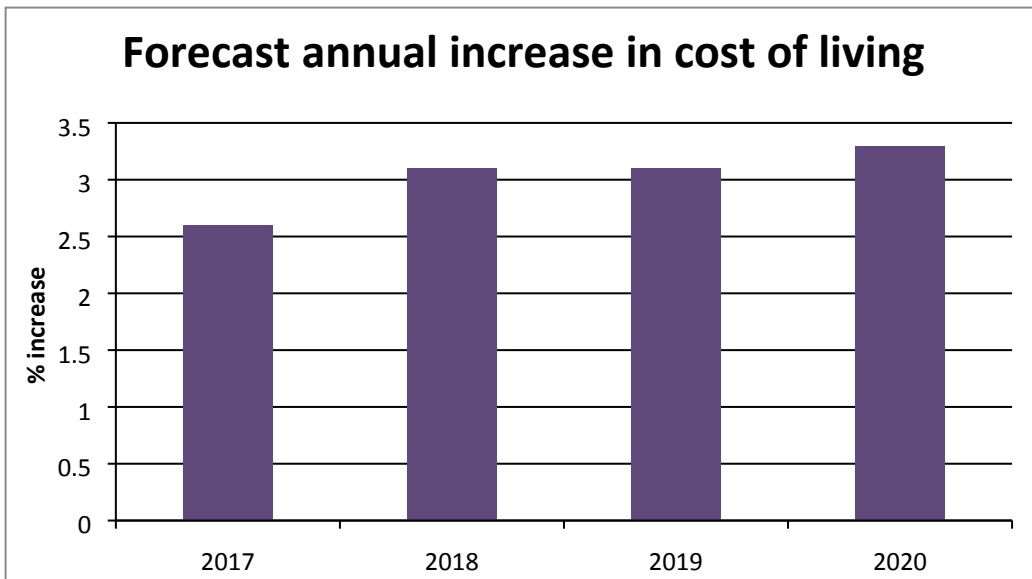
Between April 2010 and April 2016 pay in the Royal Borough of Windsor & Maidenhead rose by a variable amount according to grade and performance while inflation rose by 17.3%. This represents a fall in real living standards for the Royal Borough of Windsor & Maidenhead employees.

UNISON and GMB believe that the Retail Prices Index (RPI) remains the most accurate measure of inflation faced by employees. The most widely quoted figure for inflation in the media is the Consumer Prices Index, However, UNISON believes that CPI consistently understates the real level of inflation for the following reasons:

- CPI fails to adequately measure one of the main costs facing most households in the UK – housing. Almost two-thirds of housing in the UK is owner occupied, yet CPI almost entirely excludes the housing costs of people with a mortgage
- CPI is less targeted on the experiences of the working population than RPI, since CPI covers non working groups excluded by RPI – most notably pensioner households where 75% of income is derived from state pensions and benefits, the top 4% of households by income and tourists
- CPI is calculated using a flawed statistical technique that consistently underestimates the actual cost of living rises faced by employees. The statistical arguments are set out exhaustively in the report “Consumer Prices in the UK” by former Treasury economic adviser Dr Mark Courtney, which is summarised [here](#)

3. FORECAST INFLATION RATES

Treasury forecasts indicate that the cost of living is set to rise significantly once more, with the 2017 rate hitting 2.6% followed by an acceleration to over 3% a year between 2018 and 2020. If these rates turn out to be correct, the cost of living employees will face will have grown by almost 15% by the close of 2020, following the pattern set out in the graph below.

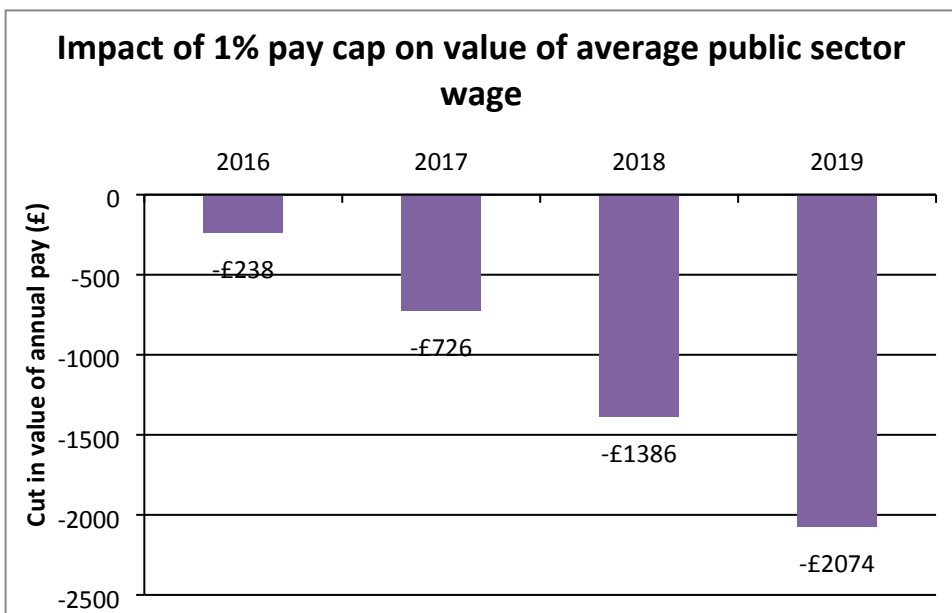


Source: HM Treasury, Forecasts for the UK Economy, May 2016

Pay increases below these forecasts will only lead to a further erosion in the real value of take home pay and increase the debts which many of our members face.

4. IMPACT ON REAL WAGES

Given the government's intention to extend the 1% public sector pay cap to 2019, the potential impact of this inflation forecast on the value of an average public sector wage is shown below. By 2019, the average wage would have declined in value by over £2,000.



The most recent data from the Annual Survey of Hours and Earnings suggests that the real value of average UK pay packets has fallen by 12% since 2010, with employees losing almost £2,800 a year from the value of their pay packet since the government came to office. The average worker would have accumulated more than £16,700 more had their wage kept pace with inflation.

For those public sector workers who have not benefited from any incremental progression in their pay, the decline has been even sharper. Between 2010 and 2015, the public sector worker on the median wage saw a 14% cut in the real value of their earnings, leaving their 2015 wage £4,854 down on the value of their earnings at the start of 2010 and the accumulated loss from their wage failing to keep pace with inflation each year stood at over £21,447.

5. INFLATION COMPONENTS

The changes in the price of components of the Retail Prices Index over the year to June 2016 are shown in the table below.

Item	Average % increase to June 2016
Personal expenditure	3.2
Housing and household expenditure	2.4
Consumer durables	2.3
Mortgage interest payments & council tax	1.6
Alcohol and tobacco	1.5
Travel and leisure	1.5
Food and catering	-1.2
All goods	-0.6
All services	2.8
All items	1.6

Source: Office for National Statistics, Consumer Price Inflation Reference Tables, June 2016

The drop in the inflation rate over recent years has been driven by declines in energy prices after years of strong growth, along with falls in food prices. However, the biggest cause has been the major fall in oil prices. Nonetheless, some costs are rising significantly, with a 5.5% acceleration in prices for clothing and footwear among the most notable features of the latest inflation figures.

The price of housing also remains one of the biggest issues facing employees and their families. Across the UK, house prices rose by 8.1% in the year to May 2016, taking the average house price to £211,230¹. In the South East, annual house price inflation was 12.9% over the year to May 2016, taking South East average house prices to £306,037.

¹ Office for National Statistics, House Price Index March 2016, published May 2016

The rate of increase in rents has generally been well ahead of general price increases. However, a surge in homes to let before introduction of the stamp duty surcharge on second homes took the annual rate of increase down to 1.8% over the year to May across England and Wales, when average rents hit £793². The same trend was apparent in new tenancy rates, though prices still jumped by 3.5% across the UK (excluding London) in the year to June 2016³. At the same time, the South East saw average monthly rent hit £978. In UNISON's local government membership survey⁴, 51% of South East respondents reported that they were finding housing costs more or much more difficult to meet compared to the previous twelve months.

UNISON surveys have consistently found that around one third of employees have child caring responsibilities. Though not specifically assessed by CPI or RPI figures, childcare costs represent a key area of expenditure for many employees. Therefore, it is also worth noting that the annual Family & Childcare Trust survey⁵ for 2016 found that the cost of a part-time nursery place for a child under two grew by an average annual rate of 5.3% since 2010. This means that it now costs £6,072 per year to place a child in nursery care for 25 hours a week.

Current inflation rates can mask longer term changes in the cost of living that have taken place since 2010. For instance, food price inflation is currently quite low, but between 2010 and 2015 it saw major rises, as reflected in the table below.

Item	% price rise 2010 - 2015	Item	% price rise 2010 - 2015	Item	% price rise 2010 - 2015
Beef	26%	Fruit	16%	Gas	32%
Fish	18%	Mortgage interest payments	16%	Electricity	28%
Butter	24%	Bus and coach fares	21%	Water	18%
Potatoes	15%	Rail fares	23%		

6. PAY SETTLEMENTS AND AVERAGE EARNINGS

The ability of RBWM to attract and retain staff in the long term will be damaged if pay continues to fall behind the going rate in the labour market.

The table below shows that pay settlements over the last year across the economy have been running at 2%.

A huge gap opened up between private and public sector settlements in 2010. This grew during 2011-12 when the public sector pay freeze was accompanied by average private sector pay rises of 2.5%. Since then, the 1% public sector pay cap has been running at

² LSL Property Services. Buy to Let Index, May 2016

³ HomeLet Rental Index, June 2016

⁴ Under pressure, underfunded and undervalued- UNISON members keeping communities together June 2016

⁵ Family & Childcare Trust, Childcare Costs Survey 2016

around half of the average rate in the private sector. Latest figures show public sector pay settlements at 1% over the last year, private sector settlements at 2% and voluntary sector settlements at 1%

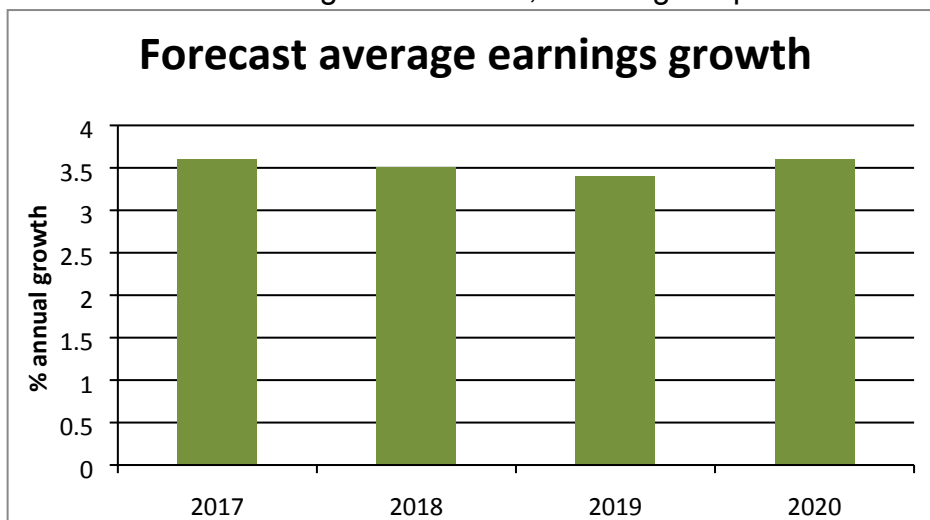
A sample of economic sectors that can provide alternative career options for RBWM staff shows pay settlement rates varying between 2% and 2.4%.

Sector	Average reported pay settlements
Across economy	2.0%
Private sector	2.0%
Public sector	1.0%
Not for profit	1.0%
Retail & wholesale	2.4%
Transportation & storage	2.0%
Information & communication	2.0%
Admin & support services	2.0%

Source: Labour Research Department, based on reported settlements in sector over last year

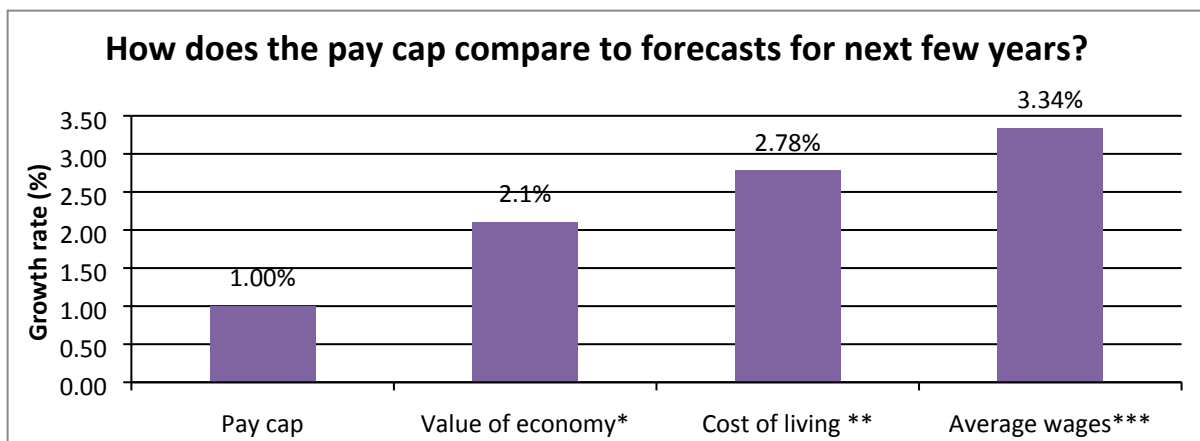
These trends add to wage differentials, which already show that local government pay rates are the worst in the public sector.

In order to remain competitive with wages across the economy, RBWM will need to keep up with average earnings growth predicted to rise across the economy at 3.6% in 2017 and continue in that region until 2020, following the pattern shown below.



Source: Office for Budgetary Responsibility, Economic and Fiscal Outlook, March 2016

When examining the outlook over the next four years, the average increase in the value of the economy is set to run at 2.1%, the cost of living is due to grow at 2.8% a year and average earnings growth is expected to average 3.3%.



Sources:

* Based on average GDP forecasts from Office for Budgetary Responsibility, Economic and Fiscal Outlook, March 2016

** Based on average RPI forecasts from HM Treasury, Forecasts for the UK Economy, May 2016

*** Based on average earnings forecasts from Office for Budgetary Responsibility, Economic and Fiscal Outlook, March 2016

7. RECRUITMENT AND RETENTION PRESSURES BUILDING

The unemployment rate has been on a marked downward trend over most of the last three years. This decline is predicted to continue into 2016, vacancies are getting harder to fill and staff turnover is on the rise. Latest figures from UK Commission’s Employers Skills Survey estimate that vacancies have grown by 42% over the last two years. Median turnover rates are estimated at 13.4% in the public sector as a whole, 14.9% in local government and 18.5% across the economy. RBWM has been facing an increasing crisis in relation to the recruitment of social workers and exceptionally high turnover rates in Adult Social Care.

The use of temporary and agency staff can be linked to issues around workload and morale, as temporary and agency staff are used to deal with staffing problems caused by absenteeism or recruitment and retention difficulties. In UNISON’s local government membership survey⁶, 39% of South East respondents said the use of temporary/agency staff had increased in the last twelve months. This is also the case in RBWM.

8. LOW PAY

It is vital that pay settlements continue to address the ongoing general problem of low pay in the Royal Borough of Windsor & Maidenhead.

Recent studies show that those on low incomes have suffered inflation rates that are 1% higher than the average over recent years because of the rapid rise in basic costs such as food, energy and transport⁷, eroding the value of wages for low-paid staff even further. With less disposable income, low paid workers are having increasing difficulty providing an adequate living standard for their children.

⁶ Under pressure, underfunded and undervalued- UNISON members keeping communities together June 2016

⁷ Institute of Fiscal Studies, IFS Green Budget 2014

9. NATIONAL LIVING WAGE

The minimum statutory rate for employees aged 25 and over in the National Living Wage (NLW) rose to £7.20 an hour from April 2016. This equates to an annual wage of £13,890.10.

The government has labelled the new minimum statutory wage of £7.20 for employees aged over 24 as the “National Living Wage.” The hourly rate from 1 April 2017 has not yet been announced. However, this rate is calculated without reference to the cost of living. It should also be noted that, despite the introduction of the government’s higher minimum wage rate in the NLW, many low-paid employees are set to suffer major cuts in their income due to welfare cuts.

Currently the lowest pay point in the Royal Borough of Windsor & Maidenhead is £14.018 – £7.26 an hour or just £0.06 above the NLW. For an employer aiming to provide high quality services, this kind of poverty pay is unacceptable. It is even more concerning that this is happening in an area with a higher-than-average cost of living.

UNISON believes that all employees doing the same or similar work should be paid at least at the level of the NLW, whatever their age. This claim is therefore for all employees, not just those over 25.

10. A LIVING WAGE

The Living Wage (LW) has become a standard benchmark for the minimum needed for low-paid workers to have a “basic but acceptable” standard of living. The Living Wage is calculated and announced annually by the Living Wage Foundation. It remains the most accurate indicator of the wage needed to achieve a basic, but acceptable, standard of living. It is currently £8.25 pence an hour outside London - £15,916 for a 37 hour week – and £9.40 pence an hour in London.

The Royal Borough of Windsor & Maidenhead is now competing in a labour market in which over 50% of councils are now paying the Living Wage as the minimum point in their pay scales.

Studies supported by Barclays Bank have shown that Living Wage employers report an increase in productivity, a reduction in staff turnover / absenteeism rates and improvements in their public reputation.

Consequently, there are now approximately 2,300 employers accredited as Living Wage employers by the Living Wage Foundation, including some of the UK’s largest private companies, such as Barclays, HSBC, IKEA and Lidl.

Within the public sector, the Living Wage is now the minimum rate in collective agreements in all Scottish governmental organisations, the Welsh NHS and among police support staff.

At the same time, local agreements have resulted in over half of local authorities across the UK paying the Living Wage to their directly employed staff.⁸ However, over 30% of the workforce is still estimated to earn below the Living Wage.

11. WELFARE CUTS – WHAT DOES IT MEAN FOR RBWM WORKERS?

Household income for people on low incomes consists of pay and in-work support provided by the Government. This pay claim needs to be seen in the context of reductions in the system of 'in-work' support that is provided through tax credits and housing benefit. Although the government has now reversed its plans to change the tax credit threshold and the taper, the elements have been frozen and are not adjusted for inflation. The family element for new claimants will be removed in April 2017 and support will be limited to two children.

Local housing allowances - housing benefit for private sector and housing association tenants - are being frozen. This means that tenants will have to find the money to pay any rent increase. Family premium is also being withdrawn from new claims. Child benefit has now been frozen since April 2010.

13. FAIR TREATMENT FOR SCHOOL SUPPORT STAFF

As part of the 2016/18 pay settlement, the NJC for Local Government Services has agreed to conduct a joint review of term-time working and fair, consistent and transparent contracts for school support staff. As part of our pay claim, UNISON is asking the Royal Borough of Windsor & Maidenhead for a commitment that it will abide by the outcomes of this review for your term time staff

Our members are critical to the smooth running of all sections of the education system and make a vital contribution to delivering improved educational outcomes for children and young people. The whole school team is a range of professional, technical, managerial and site staff. We believe that treating teachers as full-year and reducing the salaries of support staff by up to 20% through term-time working is divisive, bad for morale and unfair.

These contracts penalise a predominantly female workforce and compound the problems of low pay within it. There are also many variations and inconsistencies in the formulas used for reducing pay from the full-year rate to a term-time figure and no clarity on holiday entitlement. Employers, even within a single authority, have a variety of term-time contract

⁸ This data was derived from a Freedom of Information request sent to all UK local authorities over the summer of 2015, which received a 93% response rate

options, which makes it difficult to identify who is being paid what, and for how many weeks.

Added to this, employees are also often confused about their own entitlements due to the complexities and inconsistencies in term-time contracts and formulas. Holiday entitlement suffers from a lack of legal clarity: term-timers are in continuous employment, unable to claim out-of-work benefits, but able to claim in-work benefits. It follows that they should accrue holiday throughout the year. Term-time contracts make it difficult to recruit and retain high calibre staff and to promote school employment as a career.

Support staff are routinely working record levels of unpaid hours on planning, preparation and assessment, parent contact, liaison with teachers and other professionals, staff meetings and training. Under the School Workforce Agreement in 2003, school support staff gained additional responsibilities to add to a growth in job complexity and professionalisation since the 1980s. The school team in the 21st century is distantly related to the professional/non-professional divide of the past.

Support for fair treatment for school support staff can be seen from UNISON's survey of councillors and local government officers attending the LGA's 2015 annual conference. 82% of respondents strongly agreed or agreed with the statement 'Is it divisive and unfair that many school support staff (such as teaching assistants) are on term time contracts of around 39 weeks a year whilst teachers are paid the whole year?'

Our members' feelings are evidenced in the IDS research for UNISON⁹. Teaching assistants make up over half of the school support workforce. 71% of teaching assistant respondents believe that they are not fairly paid for the work they do – nearly a third strongly disagreeing. Term-time contracts will be a significant factor in their feelings on pay.

This is also apparent from UNISON's survey of school support staff, which received over 15,400 responses representing the whole school support staff team.¹⁰ The survey results revealed a dedicated but demoralised workforce. There were very high levels of concern about pay (89%), closely followed by concern over levels of workload and stress. While they loved their job, they also felt very undervalued. Many comments referred to term-time contracts. Frustration was expressed that they were expected to take on additional responsibilities without any financial recognition for their hard work and professionalism.

14. CONCLUSION

There can be no doubt that all employees working for the The Royal Borough of Windsor & Maidenhead have seen a significant fall in their living standards. Their real earnings have fallen substantially.

⁹ . Under pressure, underfunded and undervalued- UNISON members keeping communities together June 2016

¹⁰ UNISON survey of school support staff, Autumn 2014.

To deliver a quality service, the Royal Borough of Windsor & Maidenhead relies on its workforce and the retention of a specialist, skilled, experienced and dedicated workforce is important to the quality of service delivery. Competition for that workforce from other sectors is strong.

2016 is the year in which the Royal Borough of Windsor & Maidenhead can begin to demonstrate that its workforce is included in the recovery. This is a fair and realistic claim which we ask the Royal Borough of Windsor & Maidenhead to meet in full.

Appendix B

Salary increase calculations

Grade	Base Pay	Increase	Base plus Increase
RBWM Apprentice	9,213	620	9,834
LP Grade 1A	63,944	3,197	67,142
LP Grade 1B	34,393	1,720	36,112
LP Grade 1C	72,783	3,639	76,422
LP Grade 2	1,529,024	76,451	1,605,476
LP Grade 3	4,529,254	226,463	4,755,716
LP Grade 4	3,427,225	171,361	3,598,586
LP Grade 5	4,974,496	248,725	5,223,220
LP Grade 6	3,682,537	184,127	3,866,664
LP Grade 6 Spot	839,966	41,998	881,964
LP Grade 7	4,484,515	224,226	4,708,741
LP Grade 7 Spot	856,768	42,838	899,607
LP Grade 8	2,362,241	118,112	2,480,353
LP Grade 9	1,759,735	87,987	1,847,722
LP Grade 10	1,177,841	58,892	1,236,733
LP Grade 11	1,328,797	66,440	1,395,237
LP Grade 12	995,826	49,791	1,045,618
LP Grade 13	360,043	18,002	378,046
Strategic Directors	441,016	22,051	463,066
Deputy Directors	339,020	16,951	355,971
Head of Service	1,002,019	50,101	1,052,120
FARS Team Manager	114,432	5,722	120,153
FARS Senior Practitioner	310,396	15,520	325,916
FARS Experienced Social Worker	161,623	8,081	169,704
FARS Newly Qualified Social Worker	34,275	1,714	35,988
Berkshire Adoption SW	137,234	6,862	144,095
SW Team Manager	173,976	8,699	182,675
SW Experienced	636,403	31,820	668,223
SW Snr Practitioner	539,566	26,978	566,544
SW Newly Qualified	60,145	3,007	63,153
SW Child Pro Snr Practitioner	401,991	20,100	422,090
SW Child Pro Team Manager	218,478	10,924	229,402
SW Child Pro Experienced	380,278	19,014	399,292
SW Child Pro Ast Team Manager	379,715	18,986	398,701
SW Child Pro Newly Qualified	101,482	5,074	106,556
Approved Mental Health Professional	247,168	12,358	259,526
Assistant Educational Psychologist	39,455	1,973	41,427
Educational Psychologist	48,805	2,440	51,245
Educational Psychologists	189,407	9,470	198,878
Senior Psychologist	65,275	3,264	68,539
Principal Psychologist	80,096	4,005	84,101
Senior Advisor	62,795	3,140	65,934
Consultant	49,128	2,456	51,585
Sub Total	38,702,779	1,935,298	40,638,077

Overtime	834,963	41,748	876,711
Casual	575,714	28,786	604,499
Sub Total	1,410,676	70,534	1,481,210

Grand Total	40,113,455	2,005,832	42,119,288
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All figures are inclusive of employer costs at 24.04%.

Increases for overtime and casual are extrapolated from payments between April and August 2016 inclusive.

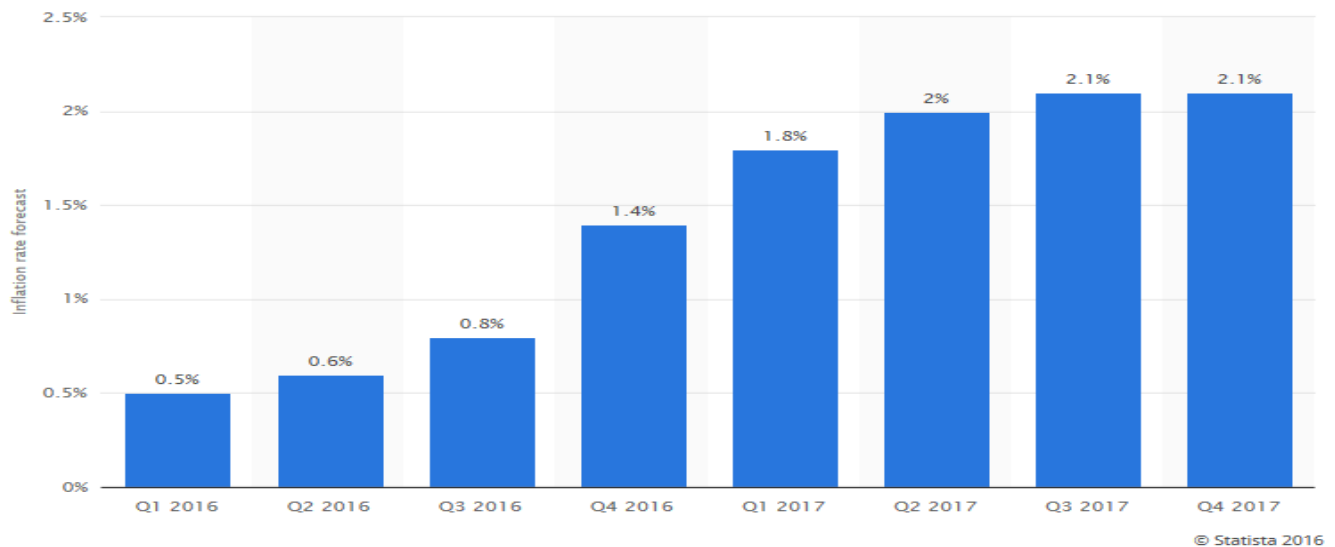
Appendix C

Pay awards and trends for 2017-18 pay claim

August 2016

1. Economic data

- 1.1 The Consumer Price Index (CPI) annual inflation increased to 0.6% in July 2016, from 0.5% in June 2016 and 0.3% in May 2016.
- 1.2 Retail Price Index (RPI) annual inflation increased to 1.9% in July 2016, from 1.6% in June 2016 and 1.4% in May 2016. Figures for August 2016 are due to be published on 13 September 2016 from Labour Research Department (LRD).
- 1.3 Inflation rate forecast as published by Statista shows forecasted percentage change of the Consumer Price Index (CPI) in the United Kingdom (UK) for the first quarter of 2016 to the fourth quarter of 2017. This forecast, calculated by the Confederation of British Industry (CBI), predicts a peak during this period of 2.1% in the last two quarters of 2017.



2. General pay trends

- 2.1 Results from the Labour Research Department (LRD) survey showed the median level of union-negotiated awards for the whole economy was 2% in the three months to June 2016 unchanged from the previous three months to May 2016.
- 2.2 The Engineering Employers Federation mean was 1.8% in the three months to June 2016, up from 1.7% for the three months to May 2016.
- 2.3 Figures provided by XpertHR showed the median whole economy pay settlement level of 1.8% for the three months ending June 2016, unchanged from the three months to May 2016.

3. The national picture

- 3.1 According to XpertHR's survey analysis, the median private-sector pay award from 1 September 2015 to 31 August 2016 is expected to be 2%. This is in line with the level of basic awards recorded in the sector over the previous bargaining year and unchanged on the predictions in both the pay forecasts survey carried out at the start of the year and the pay prospects survey carried out a year ago.
- 3.2 This is consistent with recent Labour Market Outlook reports; median pay increase expectations are higher in the private sector (2%) than in the public (1%) and voluntary (1.5%) sectors.

- 3.3 As reported by the Labour Research Department, in the year to May 2016, earnings growth for the whole economy (excluding bonuses) slipped to 2.1% from the April rise of 2.5%.
- 3.4 According to the Average Weekly Earnings data published by the Office for National Statistics, growth in the headline rate (the latest three-month average) for regular pay, excluding bonuses, was down to 2.2% in May from 2.3% for the previous month.
- 3.5 Headline average earnings growth in manufacturing was up to 2.2% from 1.9%, but growth in services was cut to 1.9% from 2.0%.
- 3.6 In the private sector as a whole, the growth was unchanged at 2.4%. In the public sector, excluding financial services, growth was down to 1.7% from 1.8% the previous month.
- 3.7 The CIPD Labour Market Outlook report for summer 2016 states that the planned median basic pay increase over the 12 months to June 2017 is 1.1%, significantly less than the 1.7% predicted in summer 2015.

4. Recruitment

- 4.1 The majority of employers say they intend to recruit, but the share is slightly down from 72% in spring 2016 to 70% in summer 2016. This is almost entirely driven by somewhat weaker intentions among public sector employers (down from 82% in spring 2016 to 75% in summer 2016). A consistent finding from previous surveys has been that more public sector organisations say they intend to hire than private sector organisations.
- 4.2 Apart from a marked, but short-lived, dip between summer 2013 and summer 2014, the overall public and private sector indicators of recruitment intentions have been fairly stable since summer 2010. The public sector has seen steady improvement since the low point of summer 2010–11, when just over 40% of public sector organisations said they would be recruiting.

Share of employers intending to recruit over next three months (%)



5. Labour turnover

- 5.1 The latest employment figures show a remarkably resilient labour market, with strong job growth and falling unemployment comparing the three months to May 2016 with the previous three months.
- 5.2 The Treasury compiles a list of independent economic forecasts each month. Comparing the forecast made in June (pre-Brexit) with the forecasts made in July (post-Brexit) indicates a

significant turnaround, with post-Brexit forecasts showing falling employment and rising unemployment in 2017, whereas the pre-Brexit forecast showed the opposite (see Table 1).

- 5.3 The forecast fall in employment for 2017 is likely to be between 50,000 and 100,000, but this is in contrast to a gain of between 200,000 and 250,000 implied by the pre-Brexit forecast. Unemployment is expected to rise from 4.9% to 5.7%, roughly where it was in mid-2014.

Table 1: the Impact of Brexit on economic forecasts for the labour market for 2017

	Pre-Brexit (June 2016)	Post-Brexit (July 2016)
GDP growth	2.1	0.5
Employment growth	0.7	-0.2
Unemployment rate	4.9	5.7
Inflation (CPI)	1.9	1.3
Average earnings	3.2	2.3

6. National pay negotiations

- 6.1 A continuation of the 1% public sector pay cap was announced by Central Government as well as a review of incremental increases. The current position on pay negotiations is:

- **Nationally negotiated local government employee terms and conditions (Green Book)** – two year deal for 2016 and 2017, with bottom loaded fixed sum increases up to Scale 3, and then 1% for all other pay points. RBWM employees are on local pay, terms and conditions.
- **Scottish Local Government** – as part of a two year deal, there was 1.5% from 1 April 2015 and 1% from April 2016. No Update for 2017 as yet.
- **Soulbury (educational psychologists and advisory teachers)** – pay offer of 1% for 2016 and 2017. RBWM equivalent staff are on local pay, terms and conditions, not Soulbury.
- **Craft Workers** – as per Green Book.
- **Chief Executive and Chief Officers** – two year deal 1% for 2016 and 2017. RBWM senior leaders are on local pay, terms and conditions.
- **Youth and Community (youth workers)** – pay offer of 1% for 2016 and 2017 with removal of the bottom pay point on the pay spine. RBWM equivalent staff are on local pay, terms and conditions, not Youth and Community.

7. National Minimum wage rates

- 7.1 Table 2 details the increase in National Minimum wage since 2010.

Table 2: National Minimum wage

Year	21 and over	18 to 20	Under 18	Apprentice
2015	£6.70	£5.30	£3.87	£3.30
2014	£6.50	£5.13	£3.79	£2.73
2013	£6.31	£5.03	£3.72	£2.68
2012	£6.19	£4.98	£3.68	£2.65
2011	£6.08	£4.98	£3.68	£2.60
2010	£5.93	£4.92	£3.64	£2.50

The UK Living Wage

- The current UK Living Wage is £8.25 an hour.
- The current London Living Wage is £9.40 an hour.

National Living Wage

- April 2016 – National living wage (NLW) is £7.20 for over 25's. This replaced the National Minimum Wage for over 25's. RBWM pays £7.26 per hour as its lowest hourly rate.
- Labour Market Outlook Summer 2016 reports that nearly half of all employers reported that the NLW had had some impact on their wage bill. Around one in seven (13%) said it had had a large impact and another 17% said it had some impact. A further 16% said it

impacted to a small extent. These results do not vary greatly between the public and private sectors.

Apprentice rate

7.2 RBWM currently pays £7,428 per annum for entry level apprentices, which is £3.85 per hour. This is higher than the national rate of £3.30 per hour. This apprentice rate is currently being reviewed.

8. Other Public Sector pay settlements

- **NHS** – 2015 1%. 1 April 2016 - 1% consolidated pay rise for all NHS staff in the UK, as well as 1% uplift to the minimum and maximum rates for High Cost Area Supplements.
- **Civil Service** – Average pay awards limited to up to 1% for four years from 2016-17.
- **Police** – From 1 September 2016 police officers will receive:
 - a 1% increase to base pay for all ranks.
 - a 1% increase to the London weighting payment.
 - a 1% increase to the dog handlers' allowance.
 - increased flexibility for South East forces to vary location-based allowances.
 - alignment of mileage expenses to standard HMRC rates.
- **Firefighters** – The NJC has agreed an increase of 1% with effect from 1 July 2015, 2016 is still pending.
- **School Teachers Pay** - 1% uplift to the minimum and maximum of all pay ranges and to classroom teacher allowances.

9. RBWM - Local pay settlements history

- April 2009 - the last global pay award under national pay.
- April 2010 – no annual pay award.
- April 2011 - £250 (consolidated) to those earning less than £21,000 per annum.
- April 2012 – 1% consolidated to those on the maximum pay point of scales 2-6.
- April 2013 – extra increment to the value of 2.5 % added to the top of scales 2 and 3, and 2% for scales 4 and 5. Increment values for scales 2 and 3 adjusted to reflect at least 2.5% increase. (NB: scales now renumbered as Grades as result of new pay Reward Scheme).
- With the introduction of the Pay Reward Scheme from April 2014, incremental progression is subject to at least satisfactory performance. Other staff had the potential to receive performance related pay.
- April 2015 – the pay reward was applied as follows: Good - 0.85%, Excellent - 2.56%, Outstanding - 5.97%
- April 2016 – the pay reward was applied as follows: Good – 0.78%, Excellent – 2.34%, Outstanding – 3.9%

10. RBWM - Recruitment and Retention

10.1 General recruitment has a high success rate although we continue to experience challenges in some specialist areas such as Children's and Adult Social Workers, Occupational Therapists, Approved Mental Health Practitioners, Accountancy and Planning. Feedback suggests these difficulties are being encountered by neighbouring authorities and reflect national shortages. A specialist head hunting agency has been successfully engaged to fill management positions within Children's Social Care and this approach will now be considered in other challenging areas.

10.2 Employment Panel have recently agreed a range of measures to support recruitment and retention in relation to those posts we have identified as hard to fill. These include revised remuneration packages for Child Protection Social Workers, Adult Social Workers, Occupational Therapists and Approved Mental Health Practitioners, reinstatement of relocation packages where appropriate and progressing the creation of more key worker housing. A dedicated recruitment microsite for Adult Social Care to complement that already in place for Children's Social Care roles will launch in September. Restructures involving the redesign of posts in Accountancy and Planning is expected to aid recruitment in these areas.

11. RBWM - staff turnover

11.1 Table 3 shows the percentage turnover of staff within the Royal Borough since 2014/15. Turnover is defined as all staff leaving the council, including those transferred to a new employer through a TUPE transfer or those leaving through redundancy. Voluntary turnover refers purely to staff who resign from their positions or retire from the council.

Table 3: RBWM staff turnover

	2014/2015				2015/16				2016/2017		
	14/15 Q1	14/15 Q2	14/15 Q3	14/15 Q4	15/16 Q1	15/16 Q2	15/16 Q3	15/16 Q4	16/17 Q1	16/17 Q2	16/17 Q3
% Turnover	13.95%	16.09%	16.82%	36.69%	16.43	14.77%	14.17%	17.48%	19.58%		
%Voluntary turnover	10.97%	11.99%	11.78%	11.09%	12.37%	12.55%	11.50%	13.65%	14.49%		

11.2 A report was submitted to Corporate Services Overview and Scrutiny panel on 19 September 2016 and contained some analysis of voluntary leavers. The analysis identified an improvement in the UK economy with more vacancies being advertised. This, linked to our proximity to London and the competitive market rates that brings, particularly affects the Royal Borough’s ability to recruit new staff and therefore could equally impact on our staff being more confident to secure roles elsewhere. These points have recently been addressed by employment panel when considering ‘hard to fill’ roles and measures to ensure a competitive approach is adopted to recruit and retain staff.

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Subject:	Pay and reward scheme options
Reason for briefing note:	To inform the Principal Member for Human Resources of progress in the development of a new pay reward scheme.
Responsible officer(s):	Terry Baldwin, Head of HR
Senior leader sponsor:	Alison Alexander, Managing Director and Strategic Director, Adults, Children and Health
Date:	Employment Panel – 18 October 2016

1 BACKGROUND

- 1.1 In July 2016 Employment Panel asked for the current Pay Reward scheme to be reviewed and simplified. Since then a number of activities have been undertaken:
- Developed Terms of Reference for the project board.
 - Established a Start-Finish project team, representatives from all Directorates and trade unions. Two meetings have been held, with further meetings scheduled to review the options following Employment Panel.
 - Meetings held with Managing Director and Strategic Director Adult, Children and Health Services, the Principal Member for HR and the project team to explore ideas for the structure of a new pay system.
 - Sought legal advice to understand the TUPE implications of staff transferring to other organisations and the consultation period to meet the go-live date of April 2017.

2 SCHEME OPTIONS REVIEWED

- 2.1 Following the meetings detailed in 1.1 five areas of commonality have been identified:
- Use of four performance ratings – outstanding; excellent; successful; requires improvement.
 - Inclusion of a ‘Gateway’ at the top of the salary range.
 - Continued use of pay ratios. 1:3:5 as used in 2015/16.
 - No payment for staff with a rating of Requires Improvement.
 - Payment date for reward 25 June, backdated to 1 April.
- 2.2 Alongside the areas of commonality, there are six areas of difference, that require further discussion:
- Annual uplift of salaries by a set percentage (Pay award).
 - Retain increments or move all staff to spot salaries.
 - Payment for performance and the use of other instant rewards (Pay reward).
 - Provide a monetary value to each of the 120 points allocated to objectives, for example £1 for every point.
 - Members’ annually setting the range for each of the ratings above requires improvement.
 - Qualifying criteria for inclusion in pay reward.
- 2.3 The areas raised in points 2.1 and 2.2 will be reviewed alongside the points raised by Members at Employment Panel, as the pay scheme continues to be developed.

3 KEY POINTS FOR CONSIDERATION

- 3.1 There are three areas that require further consideration, with legal advisers, as part of the scheme development:
- Employees transferring to other organisations under TUPE.
 - Consultation and notice periods.
 - Delivering differently – impact on scheme.

4 NEXT STEPS

- 4.1 Following Employment Panel, further development and adjustments will be made and shared with Corporate Management Team and the Task-Finish group.
- 4.2 The final report, with recommendations, will be presented to Employment Panel on 29 November 2016. Table 1 provides details the timetable to ensure implementation of the new scheme by April 2017.
- 4.3 Members are asked to note the work undertaken so far and provide any comments or guidance on the areas of difference.

Table 1: Timetable overview

Timelines	Activity	Date
July	Project and team initiation	
August	Research and development of new scheme options	
September	CMT - verbal update of progress	23.09.16
October	CMT – produce first draft of pay scheme	05.10.16
October	Employment panel – progress update	18.10.16
November	CMT - Final report with options	16.11.16
November	Employment panel - Final report with options	29.11.16
December	Start consultation with staff	01.12.16
December	End consultation with staff	30.12.16
January	Collate feedback, make amendments to scheme if required	02.01.17
January	CMT - Amended report for sign off via email	06.01.17
January	Employment Panel - amended report for sign off	19.01.17
January	Issue notification of revised scheme to staff	23.01.17
January	Ongoing communication to staff	
February	Process, systems and forms developed	
March	Implementation	
1 April 17	Objective setting starts	
April	New scheme terms and conditions become live	14.04.17

Agenda Item 8

By virtue of paragraph(s) 1, 2, 4 of Part 1 of Schedule 12A of the Local Government Act 1972.

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Agenda Item 9

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